S. HRG. 98-1012

NATIONAL TREATMENT OF BANKS

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2193

TO AUTHORIZE THE COMPTROLLER OF THE CURRENCY TO CONSIDER RECIPROCITY AMONG OTHER FACTORS IN ACTING ON AN APPLICATION BY A FOREIGN BANK TO ESTABLISH A FEDERAL BRANCH OR AGENCY, AND FOR OTHER PURPOSES

SEPTEMBER 26, 1984

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NATIONAL TREATMENT OF BANKS

WEDNESDAY, SEPTEMBER 26, 1984

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 9:30 a.m., in room SD-538, Dirksen Senate Office Building, Senator Jake Garn (chairman of the committee) presiding.

Present: Senators Garn, Heinz, Gorton, Hecht, and Sasser.

OPENING STATEMENT OF CHAIRMAN GARN

The CHAIRMAN. The Banking Committee will come to order.

This morning we are pleased to have the Secretary of the Treasury with us as our first witness.

The International Banking Act of 1978 adopted the principle of national treatment for foreign banks operating in the United States. Under that principle foreign banks operating in this country are given an equality of competitive opportunity with our own domestic banks. Congress adopted the national treatment principle in 1978, 6 years ago, in the expectation that our trading partners would reciprocate by extending national treatment to U.S. banks operating abroad.

Pursuant to a requirement of the International Banking Act, the Department of Treasury in 1979 in conjunction with the Federal Reserve, the Comptroller of the Currency, and the FDIC, published a report to Congress on foreign government treatment of U.S. commercial banking organizations. That report identified many instances where U.S. banks seeking to operate abroad did not receive an equality of competitive opportunity with local banks.

A continuing lack of adequate progress by some of our trading partners toward providing national treatment for U.S. banks abroad prompted me to introduce S. 2193 last year. That piece of legislation would require the Comptroller of the Currency when acting on a foreign bank's application to open a U.S. office to consider the treatment of U.S. banks in the applicant bank's home country.

Subsequent to introducing S. 2193, I wrote a letter to Treasury Secretary Regan requesting an update of the 1979 report on foreign treatment of U.S. banks. That update was sent to the Congress by the Treasury Department in July. I believe that it confirms the need for Congress to continue pressing for national treatment for U.S. banks in foreign markets.

This morning's hearing will focus on both the new Treasury report and the need for legislation along the lines of S. 2193. I also

hope to develop a record on the importance of service exports to the U.S. economy.

[Copy of S. 2193 follows:]

II

98TH CONGRESS
1ST SESSION

S. 2193

To authorize the Comptroller of the Currency to consider reciprocity among other factors in acting on an application by a foreign bank to establish a Federal branch or agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18 (legislative day, NOVEMBER 14), 1983

Mr. GARN (for himself, Mrs. HAWKINS, Mr. HECHT, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

---

A BILL

To authorize the Comptroller of the Currency to consider reciprocity among other factors in acting on an application by a foreign bank to establish a Federal branch or agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the International Banking Act of 1978 (12 U.S.C. 3102(c)) is amended to read as follows: "In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and

future prospects of the applicant foreign bank and the branch or agency, whether or not United States banks are permitted to conduct business in the home country of the applicant, and the convenience and needs of the community to be served.".

○

The CHAIRMAN. Finally, I hope to develop a record on the validity of some of the more common justifications used by our trading partners to deny national treatment to U.S. banks abroad.

In preparation for this hearing I wrote letters seeking input from the U.S. Chamber of Commerce in each of the foreign markets covered in the Treasury Department's update. Responses to those letters will be included in the record of this hearing.

[Responses from U.S. Chamber of Commerce can be found on p. 80.]

I stated earlier this summer that I wanted to at least begin hearings before Congress adjourned. Some interested parties were not able to arrange their schedules to be here today and we may hold additional hearings to accommodate them.

Last year I also took a trip to some of the countries that have been the most offensive in this area. In Australia I had talks with many of their Ministry of Finance people. I had similar talks in Korea. I have since spoken with Canadian officials. Although there have been some crumbs thrown our way as a result of some of our efforts, I would say that they have only been crumbs at this point. The actions of the Australian Government after the Martin and Campbell reports are only a very, very small step in the right direction.

But we are pleased to have Secretary Regan with us this morning. Before I turn to you, Mr. Secretary, I'd like to turn to Senator Heinz. Senator Heinz has been active over many years, back as early as 1978 and 1979, in showing an interest in trying to do something to help our domestic banks with what we both consider unfair treatment by other governments. So it's certainly appropriate that he is here this morning because of his long interest and work in this area.

Senator Heinz.

OPENING STATEMENT OF SENATOR HEINZ

Senator HEINZ. Mr. Chairman, I thank you. And in deference to Secretary Regan I ask unanimous consent that the full text of my remarks be put in the record.

I just observe that we have a meeting going on at this very moment, as the Secretary well knows, of the International Monetary Fund, the World Bank, people from all over the world, particularly the LDC's, in town. Many of the LDC's are the worst offenders when it comes to according national treatment to foreign and U.S. banks that seek to operate in their capital markets. And the world debt crisis has frankly tended to make them, wrongly in my judgment, exacerbate the performance requirements and other nontariff barriers that result in a "beggar thy neighbor" policy. They want to take advantage of the free market system when it comes to doing business with us, but they don't want to practice a free market for capital, in many cases a free market for other international trade flows. when it comes to their economies.

We all know that's called a one-way street. But worse than it being a one-way street, it exacerbates their own problems; because as long as they shield themselves from the discipline of the free marketplace, they will never enjoy the kind of competitiveness that they need in order to put their economies on a sound footing. And

so it's not only a matter of wanting to have their cake and eat it too, but it also means that they will never be able to stand on their own two feet, much less accept the responsibilities of being respectable citizens in a free world, free market economy.

It's for that reason that I commend you, Mr. Chairman, on holding these hearings. You're kind in your remarks about my interest, but you too have taken an interest in this as long or longer ago than I have.

Let me just say that although I am not an advocate of tit-for-tat retaliation—because I recognize the dangers inherent in that strategy—I do believe it's incumbent on our Nation to take the lead in reversing the present market distorting trade and investment restrictions. Jawboning may not be enough. I think we have to provide our trade negotiators with an appropriate arsenal. In that regard, Senator Garn's bill, S. 2193, is a step in the right direction, and it makes sense to look at that and other strategies to make sure we do reach the goal of a more open international trade and investment environment. Judging from the report, which Senator Garn and I both have read and which we will hear more about today, our trade negotiators so far have a mixed record of success in helping improve the ability of U.S. banks to operate abroad.

I hope that out of this hearing, Mr. Chairman, we do get a heightened sense of priorities. I know Secretary Regan is quite mindful of this. I also know he has got a very large plate with many things on it with which he has to contend, and it's my hope that we will be able to assist him by making it easier for his negotiators to succeed in negotiations by raising people's consciousness. It's also my hope that this will allow his Department to allocate more effort, knowing they are likely to be more successful.

I thank you, Mr. Chairman.

[The complete statement of Senator Heinz follows:]

OPENING STATEMENT OF SENATOR JOHN HEINZ
SEPTEMBER 26, 1984

I WOULD LIKE TO BEGIN BY COMMENDING THE CHAIRMAN FOR CALLING THIS IMPORTANT HEARING ON A SUBJECT OF GREAT CONCERN TO US BOTH. AS THE CHAIRMAN WELL KNOWS, THIS IS AN AREA IN WHICH I TOO HAVE LONG BEEN INTERESTED.

THAT INTEREST BEGAN WITH THE ORIGINAL FOREIGN TREATMENT OF U.S. BANKS STUDY IN 1979. IT CONTINUED THROUGH HEARINGS THAT YEAR ON FOREIGN TAKEOVERS OF U.S. BANKS AND THE 1980 MORATORIUM RESULTING FROM THOSE HEARINGS. IN 1981 I CHAIRED HEARINGS WHICH CONTINUED TO PURSUE THAT ISSUE BY INVESTIGATING FOREIGN BARRIERS TO U.S. TRADE AND SERVICES. THOSE HEARINGS PROVED TO BE OF GREAT ASSISTANCE TO ME IN AMENDMENTS WHICH I OFFERED TO THE RECIPROCITY LEGISLATION WHICH IS PART OF THE TRADE BILL ABOUT TO GO TO CONFERENCE. INDEED, THIS ISSUE IS OF SUCH IMPORTANCE TO ME THAT I INTEND TO CONTINUE REVIEW OF THE SUBJECT AT THE SUBCOMMITTEE LEVEL DURING THE 99TH CONGRESS.

ONE OFTEN HEARS THAT ONE OF THE GREAT TRADE PROBLEMS FACING THE WORLD TODAY IS THE THREAT OF AMERICAN PROTECTIONISM. IT IS MY BELIEF, HOWEVER, THAT THIS PROBLEM IS FAR OVERSHADOWED BY THE PROTECTIONISM PRACTICED BY OTHERS IN BOTH THE DEVELOPED AND THE LESS-DEVELOPED WORLD. THE WORLD DEBT CRISIS HAS ONLY SERVED TO EXACERBATE THIS PROBLEM BY TEMPTING MANY IN THE LESS-DEVELOPED WORLD TO PRACTICE A "BEGGAR THY NEIGHBOR" POLICY OF SUBSIDIES, PERFORMANCE REQUIREMENTS, AND A HOST OF OTHER NON-TARIFF BARRIERS. THESE ARE PARTICULARLY TROUBLESOME AND DANGEROUS IN THE AREA OF SERVICE EXPORTS AND FOREIGN INVESTMENT RESTRICTIONS,

BECAUSE IT IS IN THESE AREAS THAT THE UNITED STATES IS MOST COMPETITIVE, AND IT IS ALSO THE AREA FROM WHICH WE DERIVE A SIGNIFICANT SHARE OF OUR FOREIGN INCOME. IN A TIME OF BALANCE OF PAYMENTS DEFICITS APPROACHING $100 BILLION, WE DARE NOT ALLOW FURTHER EROSION IN THIS AREA.

I HAVE NEVER BEEN AN ADVOCATE OF SIMPLE TIT-A-TAT RETALIATION, AND I RECOGNIZE THE DANGERS INHERENT IN SUCH A STRATEGY, BUT I DO BELIEVE THAT IT IS INCUMBENT UPON OUR NATION TO TAKE A LEAD IN REVERSING THE PRESENT DRIFT TOWARD MARKET DISTORTING TRADE AND INVESTMENT RESTRICTIONS. UNFORTUNATELY, MORAL SUASION AND GOOD EXAMPLES ALONE ARE NOT LIKELY TO BE ENOUGH TO REVERSE THIS DISTURBING TREND. WE MUST PROVIDE OUR TRADE NEGOTIATORS WITH THE ARSENAL NECESSARY TO ENABLE THEM TO PREVAIL. SENATOR GARN'S BANK RECIPROCITY BILL, S. 2193, IS A STEP IN THE RIGHT DIRECTION AS ARE THE RECIPROCITY PROVISIONS OF THE SENATE TRADE BILL. IT MAKES SENSE TO LOOK AT ALL THE POSSIBLE STRATEGIES WHICH MIGHT HELP US TO REACH THE GOAL OF A MORE OPEN INTERNATIONAL TRADE AND INVESTMENT ENVIRONMENT.

JUDGING FROM THE REPORT WHICH HAS BEEN SUBMITTED BY THE TREASURY TO THE COMMITTEE, WE WILL HEAR TODAY THAT OUR TRADE NEGOTIATORS HAVE HAD A MIXED RECORD IN THEIR ATTEMPTS TO IMPROVE THE SITUATION FOR U.S. BANKS OPERATING ABROAD. I AM PARTICULARLY INTERESTED IN HEARING THE SECRETARY'S ASSESSMENT OF WHAT NEW LEVERAGE MAY BE NECESSARY. IS MIRROR IMAGE LEGISLATION EFFECTIVE IN ENFORCING RECIPROCITY? HOW HIGH A PRIORITY DOES THE ISSUE OF FOREIGN BARRIERS TO TRADE AND INVESTMENT HAVE ON OUR NEGOTIATING

AGENDA? HOW CAN WE CONVINCE OUR TRADING PARTNERS OF OUR SERIOUSNESS IN THIS AREA? AND, FINALLY, WOULD IT BE BETTER TO CONTINUE THE NEGOTIATING PROCESS BILATERALLY, OR IS A MULTILATERAL FORUM SUCH AS THE GATT THE BEST APPROACH? IF SO, WHEN SHOULD WE HAVE OUR NEXT ROUND OF NEGOTIATIONS?

I MUST SAY THAT I REMAIN SKEPTICAL ABOUT THE NEED TO KEEP COMPLETELY FREE ACCESS TO THE U.S. BANKING MARKET FOR COUNTRIES WHO FALL FAR SHORT OF ACCORDING SUCH ACCESS TO U.S. INVESTORS AND SERVICE EXPORTERS. I HOPE TO HEAR ANSWERS TO THESE AND OTHER QUESTIONS AT THE HEARING TODAY, AND I AM PARTICULARLY INTERESTED IN THE SECRETARY'S ANALYSIS OF THE SITUATION.

The CHAIRMAN. Senator Hecht, although a new member of the committee, was with me on that trip last year and was in all of the meetings when I attempted to deliver a strong message to the Australians. Senator Hecht, do you have any comments you wish to make?

OPENING STATEMENT OF SENATOR HECHT

Senator HECHT. Thank you, Senator Garn. I would say to all of you that if you don't know Senator Garn, after he gets finished speaking there's no doubt of what Senator Garn has said, so the message went out loud and clear.

I just want to take one moment and speak to Secretary Regan. It was my pleasure to attend the opening sessions of the IMF and World Bank meetings currently in Washington. After talking to many participants from all around the world, they were unanimous in their praise of your leadership as Secretary of the Treasury. America has never had a more esteemed role in world finance than we do now and I personally want to congratulate you on your accomplishments.

Secretary REGAN. Thank you.

The CHAIRMAN. Mr. Secretary, we understand what a busy schedule you have with the IMF and World Bank in town and we understand that after your testimony you will have to leave and Peter Wallison will stay to respond to questions. We understand that.

I would just further indicate that it was not an accident that these hearings were held while the IMF and World Bank and bankers from many countries are in town. Please proceed.

STATEMENT OF DONALD T. REGAN, SECRETARY OF THE TREASURY

Secretary REGAN. I thank you, Mr. Chairman, for your indulgence in allowing me to make this statement and have my general counsel, Peter Wallison, answer your questions.

UPDATE OF THE 1979 STUDY

I am pleased, though, to have the opportunity to testify before this committee on the "1984 Update to the National Treatment Study" and the reciprocity legislation—S. 2193—introduced by you, Mr. Chairman, and other members of this committee. In requesting the "Update to the National Treatment Study," Senator Garn and other sponsors of the bill performed a valuable service in calling attention to problems faced by U.S. banks and financial firms overseas, focusing attention on denial of national treatment.

In my testimony I will review the findings of the "1979 National Treatment Study," the major efforts, both bilateral and multilateral, made by the U.S. Treasury since then to improve the treatment of U.S. banks overseas, and then discuss the 1984 update, viewed against the situation in 1979. I will then explain the Treasury position on the proposed legislation—S. 2193—and our rationale for continuing to favor a policy of national treatment.

In 1978, Congress determined in the International Banking Act that U.S. banking policy would continue to be national treatment. That legislation also mandated the "1979 National Treatment Study" which contained an analysis of banking policies and practices in 141 countries. Two of the main conclusions were:

> U.S. banks have a substantial degree of access to most financial markets abroad of importance to them, both in terms of initial entry and the powers they may exercise once entry has been accomplished. U.S. banks established in those markets generally believe that they are fairly treated compared with indigenous institutions.
>
> Within this generally favorable context, some variation in the treatment of U.S. and other foreign banks is evident. This treatment ranges from free and open regulatory environments in developed nations, with a few marked exceptions, to quite restrictive conditions in some nations in earlier stages of development. However, a number of developing countries are relatively accessible to foreign banks and a few actively encourage foreign presence.

The principal recommendations of the 1979 report, which remain relevant today, included the view that the U.S. Government should bring pressure to bear in countries that did not grant national treatment or competitive equality:

> Because the principle of national treatment lays the best foundation for further growth of international banking and efficient capital markets, broad support for this principle should continue. The United States should use the many opportunities presented by formal and informal bilateral contacts and multilateral forums such as the OECD, in which broad investment issues are discussed, to encourage adherence to this principle, while recognizing that traditions, current policy concerns and financial structures vary widely across countries.

Since 1979, the U.S. Treasury, with interagency cooperation, has made major efforts to improve the treatment received by U.S. banking and financial firms in their overseas operations. Your efforts, Mr. Chairman, have been extremely valuable in this regard. In many cases we have been successful. There remains considerable work to be done, not only in banking, but also in securities and other financial services.

I will concentrate on the efforts made by this administration since taking office. In our efforts, we have sought and received the assistance of the U.S. banking community, including the Bankers' Association for Foreign Trade, and the American Bankers Association, as well as input from individual banks, the Office of the Comptroller of the Currency, the Federal Reserve Board, FDIC offi-

cials, the State Department, and U.S. embassies overseas. These groups have informed us of significant impediments to operations as well as areas where progress is being made.

MAJOR EFFORTS WITH OUR COUNTERPARTS

I and other senior Treasury officials have made major efforts with our counterparts including those from Japan, Korea, Canada, and Australia.

Let me give some examples:

Our most extensive efforts over the past 4 years have focused on Japan. From the early days of the administration we urged the Japanese to liberalize their domestic capital markets and extend national treatment to U.S. banks and securities firms. In November 1983, President Reagan and Prime Minister Nakasone issued a joint statement which expressed their:

> * * * mutual commitment toward specific steps to achieve open capital markets (to) allow the yen to reflect more fully Japan's underlying political stability and economic strength as the second largest economy in the free world.

At that same time, Minister Takeshita and I jointly released an announcement in which we agreed that:

> Open liberal capital markets and the free movement of capital are important to the operation of an effectively functioning international monetary system.

We also established a joint working group on yen/dollar exchange rate issues.

Minister Takeshita and I met several times to discuss capital market and yen/dollar issues. We accepted and released last May the "Report on Yen/Dollar Exchange Rate Issues." That report culminated 6 months of intensive negotiations between our two ministries which centered on three basic areas: Development of a Euroyen banking and bond market; liberalization of Japan's domestic capital markets; and greater access by United States financial institutions to the Japanese market.

The report contained specific policy commitments by the Ministry of Finance that are fundamental and far reaching in all three of these areas. They will affect positively the ability of United States financial institutions to operate competitively along with Japanese firms both in Japan and in the Euroyen market. Focusing in particular on the areas relating to U.S. banks and securities firms, when the policy changes are fully implemented our firms will, for the first time, be able to: Deal in Government securities; undertake foreign exchange transactions in the forward market free from regulation; extend loans from Japan without prior permission; lead manage bond issues in Japan and in the Euroyen market; establish trust banking businesses; hold a seat on the Tokyo Stock Exchange; offer Euroyen CD's; issue Euroyen bonds; operate in a banker's acceptance market; undertake unlimited yen/dollar swaps; and generally operate in a more transparent environment.

While it is too early to give a definitive assessment of the implementation of these commitments, evidence suggests that implementation is on track. We will meet with the Japanese in November to assess results to date. But these commitments represent significant

progress in the securing of national treatment for U.S. financial institutions.

Significant progress is being made in the Republic of Korea. Deputy Secretary McNamara and I, in separate visits to South Korea, stressed the importance we attached to improvement in the operating conditions of United States banks and urged a policy of full national treatment. In May, the Republic of Korea announced that foreign banks would be granted access to the discount window at the Bank of Korea by 1985. In addition, the Korean Government affirmed its commitment to national treatment and published a timetable for specific actions and progress toward that objective. I might add parenthetically here, Mr. Chairman, I am meeting with Prime Minister Kim this afternoon and will be pressing for more details on this.

I also have met with my counterparts from Canada and Australia. In Canada, the ceiling on domestic bank assets that can be held by foreign banks has been doubled, from 8 to 16 percent. And again parenthetically, Mr. Chairman, I agreed yesterday with Finance Minister Wilson to meet regularly with him and this will be one of the subjects that we will discuss further as soon as he gets a better hold on his job.

In Australia, the Government has recently decided to accept applications from foreign banks to establish affiliates or subsidiaries. We don't know yet what this will mean specifically to U.S. banks, but there should be some increased involvement.

The Treasury will continue to very closely monitor progress in these countries. I also appreciate, Mr. Chairman, your committee's interest in factfinding efforts in Canada and the Pacific Basin.

Now on a multilateral basis, the Treasury has worked at the OECD, at ministerial meetings, urging removal of impediments to capital flows, and also in specialized committees, such as the Committee on Financial Markets.

The Treasury's efforts to improve the treatment received by U.S. financial institutions have expanded under this administration to include securities firms and other related financial services companies as well as commercial banks. This was a response to the increasing international activity of these firms, the blurring of the lines dividing banks from nonbanks in the United States, and the differences in where these lines between banks and nonbanks are drawn in foreign countries.

A number of foreign countries, for example, have opted for a universal banking system, in which banks engage not only in the full range of traditional commercial banking activities but also in securities underwriting and brokerage. A comprehensive approach is necessary to ensure that all parts of the U.S. financial community receive an equal competitive opportunity in those foreign markets.

POLICY OF COMPLETE OPENESS IN ALL SECTORS OF BANKING

Our policy is that a financial institution should be able to engage in all activities in which a comparable local institution can engage and that no sector should be placed off limits to foreign competition. Reconciling this objective with local laws and regulations governing the structure and powers of banks and other financial insti-

tutions requires hard work and flexibility on both sides. It is, therefore, particularly encouraging that we have come to a satisfactory arrangement in so many situations. The United States set an example in the International Banking Act of 1978 by making an exception to our traditional separation of banking and securities activities so that the securities activities of foreign universal banks would be grandfathered.

Several European countries, notably Britain and Germany, grant United States banks national treatment not only in the commercial banking area, but also in merchant banking activities because their own local banks are allowed to engage in this business. As noted, Japan announced in the yen/dollar report last May that foreign banks would be allowed to enter the trust banking business and to provide the full range of services offered by Japanese trust banks. I might note in this connection that we have permitted Japanese commercial banks to engage in the trust business in the United States, even though they were not allowed to do so in Japan.

The point I want to make is that, applied comprehensively to the whole array of financial services, a policy of national treatment provides a viable means of overcoming differences between national financial systems. And I believe our policy of national treatment, coupled with flexibility in addressing the needs of foreign financial institutions, has achieved substantial benefits for U.S. financial institutions abroad.

Nevertheless, some substantial inequities still remain, and we intend to intensify our efforts to correct them. In countries which have adopted a universal banking system, U.S. brokers and securities firms may be effectively excluded from many types of business by requirements that underwriting, dealing, and distribution of securities be conducted by a bank.

Some countries, including Germany and the Netherlands, do not permit any United States financial institution to lead manage a securities issue denominated in their currencies. Although such restrictions are explained on grounds of monetary and capital market policy, they nonetheless are examples of denial of national treatment. Allowing these United States institutions to compete would not endanger the authorities' control, as the experience of Switzerland and other countries demonstrates.

Retaining discriminatory restrictions on lead management not only conflicts with national treatment; it also is in marked contrast to the policies of the United States and Japan, which will allow any licensed securities firm to lead manage issues in its home capital market and any foreign financial institution to lead manage bond issues denominated in its currency outside of its home capital market.

"THE 1984 NATIONAL TREATMENT STUDY UPDATE"

I believe you are aware that the "1984 Update to the National Treatment Study" has been a cooperative effort. In addition to an interagency drafting group headed by the Office of the Comptroller of the Currency, the drafts were shown to the U.S. banking industry and to the governments in the countries concerned for their

comment. There should be no doubt or surprise about our feelings and assessment of the situation.

Substantial progress has been made in the intervening years since the "1979 National Treatment Study," mainly in the advanced countries.

I will not repeat in detail the findings on every country included in the update. I have already mentioned the situation in Japan, the Republic of Korea, Canada, and Australia.

In Portugal, the first two United States banks have just been admitted. This has taken place since I sent you the update.

There has been significant improvement in Spain, where United States banks can establish branches.

United States banks are now permitted to establish subsidiaries in Finland and soon will be able to do so in Norway.

Although there has been no actual change in Sweden, there are prospects for allowing foreign bank entry for the first time during late 1985.

Among developing countries, progress has been slower.

In India and Taiwan, there has been minor improvement.

In Brazil, Mexico, and Venezuela, there has been no improvement. I find this disconcerting because these are major countries that should have a genuine interest in encouraging foreign banks to establish branches or subsidiaries, in order to play a role in strengthening and broadening the domestic financial market framework. Such entry also would help ensure that the banks see their self-interests more closely identified with the countries' own future. We intend to make a greater effort to obtain national treatment for U.S. banks in these countries. This is a point we will continue to make in our discussions with officials from these countries.

In the Philippines and Thailand, there has been some deterioration in competitive equality resulting from domestic market liberalization.

In reviewing the progress made, I am favorably impressed that in several recent cases where liberalization measures have been taken or proposed—as in Japan, Korea, and Portugal—the countries concerned have specifically cited a commitment to the policy of national treatment or working toward that goal.

THE U.S. COMMITMENT TO NATIONAL TREATMENT

I already have noted that progress in obtaining national treatment for U.S. banks and financial firms sometimes comes slowly, and in some countries, not at all. Like you, we in the Treasury Department are sometimes struck by the apparent unfairness of the treatment of U.S. banks overseas and the seeming abuse of our hospitality; foreign banks receive national treatment in the United States while their home countries maintain restrictions on U.S. banks' operations in their domestic markets.

The proposed reciprocity legislation would require the Comptroller of the Currency to take into account "whether or not United States banks are permitted to conduct business in the home country of the applicant" when acting on any application to establish a Federal branch or agency. It does not require strict reciprocity. Strict reciprocity would mean that countries which limit U.S. bank

presence to subsidaries would be limited to subsidiaries here; or if U.S. banks were limited in the growth of their assets or deposits in specific countries, we would have to require similar practices in the United States on banks from those particular countries.

Such a policy would be nearly impossible to administer. Our markets are open. As a result, we benefit from competition and greater efficiency. There are over 550 foreign bank operating entities in the United States representing 250 different foreign bank families. Over 135 of these entities have U.S. assets of over $100 million. There are over 300 foreign representative offices in the United States. All told, over 60 foreign countries are represented here. On the other side of the ledger, U.S. banks have 890 branches in 73 foreign countries.

Attempting to administer a policy of reciprocity would require a burgeoning regulatory bureaucracy and could lead to administrative chaos. If strictly applied, reciprocity would reduce U.S. policy to a lowest common denominator basis, remove flexibility, and work against building and developing the United States as a major international financial center.

On balance, the policy of national treatment decided on and reconfirmed by the Congress in 1978 has worked well. In urging foreign governments to adopt the policy, we have repeatedly cited our genuine belief that it is beneficial to all concerned. It is pragmatic, helps assure competitive equality, and also helps to widen and deepen the financial and banking markets of the foreign countries. It introduces new technology, benefits the economy, and strengthens the international competitiveness of the country concerned.

From time to time we do experience a high degree of frustration with certain countries that maintain restrictions and deny national treatment to U.S. financial firms. There have been suggestions that Treasury consider a different approach: If foreign countries denied U.S. banks national treatment, we might give them notice and take the same approach until they change their policies. If foreign countries denied our banks the right of establishment or imposed discriminatory operating impediments and restrictions in their domestic markets, we might do the same.

This approach might be satisfying and relieve frustration, but it also could be counterproductive. It might provoke retaliation or actually delay adoption of more liberal policies in the countries concerned. In other words, it might not yield the positive results we seek. Our frustration might be relieved temporarily, but in the process the United States would diminish its own leadership position and sink to the level of others.

Foreign banking operations in the United States have strengthened our markets, in the process providing jobs and finance to local industry and U.S. exports. Reciprocity, possibly leading to retaliation, ultimately could weaken the efficiency of both our domestic as well as international markets, by reducing competition. It clearly is in the best interests of other countries to liberalize their policies and strengthen their own domestic financial markets; it is not in the best interest of the U.S. banking and financial system to follow their undesirable examples. No one would gain in the long run.

MEANINGFUL RESULTS HAVE BEEN OBTAINED

In conclusion, Mr. Chairman, while grateful for the congressional interest and sympathetic with the intent of your proposed legislation, I believe that its enactment is not necessary because of the progress that is being made. The administration prefers to continue to pursue our policy of national treatment; it is a proven and pragmatic approach. The "1984 Update to the National Treatment Study" shows that we have obtained meaningful results in our bilateral and multilateral efforts.

In many cases, we deal with major problems on a bilateral basis. We will continue our bilateral efforts in the future. Multilateral efforts such as those in the Organization for Economic Cooperation and Development [OECD] are a useful supplement, to help identify and understand the rationale for restrictions, to seek support from the international community for their removal, and to help prevent backsliding.

Should these efforts fail to provide a framework for continued progress, we will not hesitate to take vigorous actions to promote or protect our interests. I certainly would not close the door to other tactics or selective approaches. However, looking at the "1984 Update to the National Treatment Study," I conclude that national treatment currently remains the best policy for the United States. This is true in terms of actively encouraging further liberalization in other countries, as well as of developing our own markets' efficiency. It maintains the international financial role of the United States while seeking better treatment for U.S. banks and financial firms overseas.

I hope the committee will concur with this analysis. I assure you that the Treasury will continue its efforts for improved treatment of U.S. banks and financial firms overseas. The administration appreciates your continuing interest and is grateful for your support.

[The complete statement follows:]

For Release Upon Delivery
Expected at 9:30 a.m.
September 26, 1984

STATEMENT OF THE HONORABLE DONALD T. REGAN
SECRETARY OF THE TREASURY
BEFORE THE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE
September 26, 1984

I am pleased to have the opportunity to testify before this Committee on the 1984 Update to the National Treatment Study and the reciprocity legislation (S.2193) introduced by you, Mr. Chairman, and other members of this Committee. In requesting the Update to the National Treatment Study, the sponsors of the bill performed a valuable service in calling attention to problems faced by U.S. banks and financial firms overseas, focusing on denial of national treatment.

In my testimony I will review the findings of the 1979 National Treatment Study, the major efforts, both bilateral and multilateral, made by the U.S. Treasury since then to improve the treatment of U.S. banks overseas, and then discuss the 1984 Update, viewed against the situation in 1979. I will then explain the Treasury position on the proposed legislation (S.2193) and our rationale for continuing to favor a policy of national treatment.

R-2865

In 1978, Congress determined in the International Banking Act that U.S. banking policy would continue to be national treatment. That legislation also mandated The 1979 Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations (National Treatment Study), which contained data on and analysis of banking policies and practices in 141 countries. Two of the main conclusions of the Report were:

> U.S. banks have a substantial degree of access to most financial markets abroad of importance to them, both in terms of initial entry and the powers they may exercise once entry has been accomplished. U.S. banks established in those markets generally believe that they are fairly treated compared with indigenous institutions.
>
> Within this generally favorable context, some variation in the treatment of U.S. and other foreign banks is evident. This treatment ranges from free and open regulatory environments in developed nations, with a few marked exceptions, to quite restrictive conditions in some nations in earlier stages of development. However, a number of developing countries are relatively accessible to foreign banks and a few actively encourage foreign presence.

Major U.S. Efforts

The principal recommendations of the 1979 Report, which remain relevant today, included the view that the U.S. Government should bring pressure to bear in countries that did not grant national treatment or competitive equality:

> Because the principle of national treatment lays the best foundation for further growth of international banking and efficient capital markets, broad support for this principle should continue. The United States should use the many opportunities presented by formal and informal bilateral contacts and multilateral forums such as the OECD, in which broad investment issues are discussed, to encourage adherence to this principle, while recognizing that traditions, current policy concerns and financial structures vary widely across countries.

3

The Department of the Treasury, in collaboration with other U.S. Government agencies, should direct continuing review and maintenance of information of official policies, practices, and regulatory and legislative developments affecting operations of U.S. banks in foreign countries. This would enable the identification of important problems and determination of the need for remedial efforts. The Departments of State and Treasury should continue the implementation of these remedial efforts programs.

Since 1979, the U.S. Treasury, with interagency cooperation, has made major efforts to improve the treatment received by U.S. banking and financial firms in their overseas operations. Your efforts, Mr. Chairman, have been extremely valuable in this regard. In many cases we have been successful. There remains considerable work to be done, not only in banking, but also in securities and other financial services.

I will concentrate on the efforts made by this Administration since taking office. In our efforts, we have sought and received the assistance of the U.S. banking community, including the Bankers Association for Foreign Trade, and the American Bankers Association, as well as input from individual banks, the Office of the Comptroller of the Currency, Federal Reserve Board and FDIC officials, the State Department and U.S. embassies overseas. These groups have informed us of significant impediments to operations as well as areas where progress is being made.

I and other senior Treasury officials have made major efforts with our counterparts including those from Japan, Korea, Canada and Australia.

These efforts have not been limited to banking; they extend to the securities industry and other related financial services.

Let me give some examples:

Our most extensive efforts over the past four years have focused on Japan. From the early days of the Administration we urged the Japanese to liberalize their domestic capital markets and extend national treatment to U.S. banks and securities firms. In November, 1983, President Reagan and Prime Minister Nakasone issued a joint statement which expressed their "mutual commitment toward specific steps to achieve open capital markets (to) allow the yen to reflect more fully Japan's underlying political stability and economic strength as the second largest economy in the free world."

At that same time, Minister Takeshita and I jointly released an announcement in which we agreed that "open liberal capital markets and the free movement of capital are important to the operation of an effectively functioning international monetary system." We also established a joint working group on yen/dollar exchange rate issues.

Minister Takeshita and I met several times to discuss capital market and yen/dollar issues. We accepted and released last May the Report on Yen/Dollar Exchange Rate Issues. That Report culminated six months of intensive negotiations between our two ministries which centered on three basic areas: development of a Euroyen banking and bond market; liberalization of Japan's domestic capital markets; and greater access by U.S. financial institutions to the Japanese market.

The Report contained specific policy commitments by the Ministry of Finance that are fundamental and far-reaching in all three of these areas. They will affect positively the ability of U.S. financial institutions to operate competitively along with Japanese firms both in Japan and in the Euroyen market. Focusing in particular on the areas relating to U.S. banks and securities firms, when the policy changes are fully implemented our firms will, for the first time, be able to:

-- deal in government securities;
-- undertake foreign exchange transactions in the forward market free from regulation;
-- extend loans from Japan without prior permission;
-- lead manage bond issues in Japan and in the Euroyen market;
-- establish trust banking businesses;
-- hold a seat on the Tokyo Stock Exchange;
-- offer Euroyen CDs;
-- issue Euroyen bonds;
-- operate in a banker's acceptance market;
-- undertake unlimited yen/dollar swaps;
-- and generally operate in a more transparent environment.

While it is too early to give a definitive assessment of the implementation of these commitments, evidence suggests that implementation is on track. We will meet with the Japanese in November to assess results to date. But these commitments represent significant progress in the securing of national treatment for U.S. financial institutions.

Significant progress is being made in the Republic of Korea. Deputy Secretary McNamar and I, in separate visits to South Korea, stressed the importance we attached to improvement in the operating conditions of U.S. banks and urged a policy of full national treatment. In May, the Republic of Korea announced that foreign banks would be granted access to the discount window at the Bank of Korea by 1985. In addition, the Korean Government affirmed its commitment to national treatment and published a timetable for specific actions and progress towards that objective.

I also have stressed to my Canadian and Australian counterparts their own self-interest in removing restrictions on U.S. banks.

In Canada, there has been significant improvement. The ceiling on domestic bank assets that can be held by foreign banks has been doubled, from eight to 16 percent. We are hope- that this represents a step towards complete elimination of the ceiling.

In Australia, the Government has recently decided to accept applications from foreign banks to establish affiliates or subsidiaries. This potentially could be a significant step towards liberalization, although we will not be in a position to assess fully the implications until we see how the policy is applied in specific cases.

The Treasury, of course, will be monitoring the implementation of these arrangements very closely. I commend, Mr. Chairman, your Committee's interest in these issues and initiative last year in personally visiting Canada and Pacific Basin countries to gauge for yourself the restrictions faced by U.S. banks.

On a multilateral basis, the Treasury has worked at the OECD: at ministerial meetings, urging removal of impediments to capital flows, and also in specialized committees, such as the Committee on Financial Markets which has just published a Report on International Trade in Services: Banking. This work involves an analysis and assessment of obstacles to international banking operations, including denials of national treatment, in the 24 OECD member countries. The OECD Report is a valuable first step in a multilateral context of what we hope will be much more comprehensive work that will include securities and other banking related services.

The Treasury's efforts to improve the treatment received by U.S. financial institutions have expanded under this Administration to include securities firms and other related financial services companies as well as commercial banks. This was a response to the increasing international activity of these firms, the blurring of the lines dividing banks from non-banks in the United States, and the differences in where these lines between banks and non-banks are drawn in foreign countries.

A number of foreign countries, for example, have opted for a universal banking system, in which banks engage not only in the full range of traditional commercial banking activities but also in securities underwriting and brokerage. A comprehensive approach is necessary to ensure that all parts of the U.S. financial community receive an equal competitive opportunity in those foreign markets.

Our policy is that a financial institution should be able to engage in all activities in which a comparable local institution can engage and that no sector should be placed off-limits to foreign competition. Reconciling this objective with local laws and regulations governing the structure and powers of banks and other financial institutions requires hard work and flexibility on both sides. It is, therefore, particularly encouraging that we have come to a satisfactory arrangement in so many situations. The United States set an example in the International Banking Act of 1978 by making an exception to our traditional separation of banking and securities activities so that the securities activities of foreign universal banks would be grandfathered.

Several European countries, notably Britain and Germany, grant U.S. banks national treatment not only in the commercial banking area, but also in merchant banking activities because their own local banks are allowed to engage in this business. As noted above, Japan announced in the Yen-Dollar Report last May that foreign banks would be allowed to enter the trust banking business and to provide the full range of services offered by Japanese trust banks. I might note in this connection that we have permitted Japanese commercial banks to engage in the trust business in the United States, even though they were not allowed to do so in Japan.

The point I want to make is that, applied comprehensively to the whole array of financial services, a policy of national treatment provides a viable means of overcoming differences

between national financial systems. And I believe our policy of national treatment, coupled with flexibility in addressing the needs of foreign financial institutions, has achieved substantial benefits for U.S. financial institutions abroad.

Nevertheless, some substantial inequities still remain, and we intend to intensify our efforts to correct them. In countries, which have adopted a universal banking system, U.S. brokers and securities firms may be effectively excluded from many types of business by requirements that underwriting, dealing, and distribution of securities be conducted by a bank.

Some countries, including Germany and the Netherlands, do not permit any U.S. financial institution to lead manage a securities issue denominated in their currencies. Although such restrictions are explained on grounds of monetary and capital market policy, they nonetheless are examples of denial of national treatment. Allowing these U.S. institutions to compete would not endanger the authorities' control, as the experience of Switzerland and other countries demonstrates.

Retaining discriminatory restrictions on lead management not only conflicts with national treatment; it also is in marked contrast to the policies of the United States and Japan, which will allow any licensed securities firm to lead manage issues in its home capital market and <u>any</u> foreign financial institution to lead manage bond issues denominated in its currency outside of its home capital market.

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The 1984 National Treatment Study Update

I believe you are aware that the 1984 Update to the National Treatment Study has been a cooperative effort. In addition to an interagency drafting group headed by the Office of the Comptroller of the Currency, the drafts were shown to the U.S. banking industry and to the Governments in the countries concerned for their comment. There should be no doubt or surprise about our feelings and assessment of the situation.

Substantial progress has been made in the intervening years since the 1979 National Treatment Study, mainly in the advanced countries.

I will not repeat in detail the findings on every country that are included in the update. I have already mentioned the situation in Japan, the Republic of Korea, Canada, and Australia.

In Portugal, the first two U.S. banks have just been admitted. (This has taken place since I sent you the Update.)

There has been significant improvement in Spain, where U.S. banks can establish branches.

U.S. banks are now permitted to establish subsidiaries in Finland and soon will be able to in Norway.

Although there has been no actual change in Sweden, there are prospects for allowing foreign bank entry for the first time during late 1985.

Among developing countries, progress has been slower.

In India, and Taiwan, there has been minor improvement.

In Brazil, Mexico and Venezuela, there has been no improvement. I find this disconcerting because these are major countries that should have a genuine interest in encouraging foreign banks to establish branches or subsidiaries, in order to play a role in strengthening and broadening the domestic financial market framework. Such entry also would help ensure that the banks see their self interests more closely identified with the countries' own future. We intend to make a greater effort to obtain national treatment for U.S. banks in these countries.

In the Philippines and Thailand, there has been some deterioration in competitive quality resulting from domestic market liberalization.

In reviewing the progress made, I am favorably impressed that in several recent cases where liberalization measures have been taken or proposed (as in Japan, Korea and Portugal), the countries concerned have specifically cited a commitment to the policy of national treatment or working towards that goal.

The U.S. Commitment to National Treatment

I already have noted that progress in obtaining national treatment for U.S. banks and financial firms sometimes comes slowly, and in some countries, not at all. Like you, we in the Treasury Department are sometimes struck by the apparent unfairness of the treatment of U.S. banks overseas and the seeming abuse of our hospitality; foreign banks receive national treatment in the U.S. while their home countries maintain restrictions on U.S. banks' operations in their domestic markets.

The proposed reciprocity legislation would require the Comptroller of the Currency to take into account "whether or not United States banks are permitted to conduct business in the home country of the applicant" when acting on any application to establish a Federal branch or agency. It does not require strict reciprocity. Strict reciprocity would mean that countries which limit U.S. bank presence to subsidiaries would be limited to subsidiaries here; or if U.S. banks were limited in the growth of their assets or deposits in specific countries, we would have to require similar practices in the U.S. on banks from those particular countries.

Such a policy would be nearly impossible to administer. Our markets are open. As a result, we benefit from competition and greater efficiency. There are over 550 foreign bank operating entities in the U.S. representing 250 different foreign bank families. Over 135 of these entities have U.S. assets of over $100 million. There are over 300 foreign representative offices in the U.S. All told, over 60 foreign countries are represented here. On the other side of the ledger, U.S. banks have 890 branches in 73 foreign countries.

Attempting to administer a policy of reciprocity would require a burgeoning regulatory bureaucracy and could lead to administrative chaos. If strictly applied, reciprocity would reduce U.S. policy to a lowest common denominator basis, remove flexibility, and work against building and developing the United States as a major international financial center.

On balance, the policy of national treatment decided on and reconfirmed by the Congress in 1978 has worked well. In urging foreign governments to adopt the policy, we have repeatedly cited our genuine belief that it is beneficial to all concerned. It is pragmatic, helps assure competitive equality, and also helps to widen and deepen the financial and banking markets of the foreign countries. It introduces new technology, benefits the economy and strengthens the international competitiveness of the country concerned.

From time to time we do experience a high degree of frustration with certain countries that maintain restrictions and deny national treatment to U.S. financial firms. There have been suggestions that Treasury consider a different approach: if foreign countries denied U.S. banks national treatment, we might give them notice and take the same approach until they change their policies. If foreign countries denied our banks the right of establishment or imposed discriminatory operating impediments and restrictions in their domestic markets, we might do the same.

This approach might be satisfying and relieve frustration, but it also could be counterproductive. It might provoke retaliation or actually delay adoption of more liberal policies in the countries concerned. In other words, it might not yield the positive results we seek. Our frustration might be relieved temporarily, but in the process the United States would diminish its own leadership position and sink to the level of others.

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Foreign banking operations in the U.S. have strengthened our markets, in the process providing jobs and finance to local industry and U.S. exports. Reciprocity, possibly leading to retaliation, ultimately could weaken the efficiency of both our domestic as well as international markets, by reducing competition. It clearly is in the best interests of other countries to liberalize their policies and strengthen their own domestic financial markets; it is not in the best interest of the U.S. banking and financial system to follow their undesirable examples. No one would gain in the long run.

Conclusion

This Administration has consistently favored a policy of national treatment rather than reciprocity. For example:

--On September 9, 1983, President Reagan issued a Statement on International Investment that reaffirmed continuing U.S. support for the policy of national treatment. It emphasized that: "The basic tenet for treatment of investment is the national treatment principle: foreign investors should be treated no less favorably than domestic investors in like situations."

--More recently, in May, 1984, I noted that the Working Group Report on Yen/Dollar Exchange Rate Issues contains a Treasury Department commitment to continue to insure that U.S. "capital markets are open to foreign financial institutions and that they are accorded national treatment and opportunity to participate fully in U.S. capital

markets." The Japanese Ministry of Finance provided a similar undertaking on the part of Japan.

--In addition, the U.S. has international obligations that favor national treatment including the OECD Codes of Liberalization and commitments under the OECD National Treatment Instrument. There would be a potential inconsistency between reciprocity and these agreements.

The Congress was wise in passing the 1978 International Banking Act; it mandated national treatment as U.S. policy and instructed the U.S. Treasury and other government agencies to seek that policy for U.S. firms overseas. The policy has worked for the U.S. and progressively is being adopted by others. Our efforts to persuade other countries to adopt national treatment could be jeopardized if we adopted reciprocity as a policy.

While grateful for the Congressional interest and sympathetic with the intent of Senator Garn's proposed legislation, I believe that its enactment is not necessary because of the progress that is being made. The Administration prefers to continue to pursue our policy of national treatment; it is a proven and pragmatic approach. The National Treatment Study 1984 Update shows that we have obtained meaningful results in our bilateral and multilateral efforts.

In many cases, we deal with major problems on a bilateral basis. We will continue our bilateral efforts in the future. Multilateral efforts such as those in the OECD are a useful supplement, to help identify and understand the rationale for

restrictions, to seek support from the international community for their removal, and to help prevent backsliding.

Should these efforts fail to provide a framework for continued progress, we will not hesitate to take vigorous actions to promote or protect our interests. I certainly would not close the door to other tactics or selective approaches. However, looking at the 1984 Update to the National Treatment Study, I conclude that national treatment currently remains the best policy for the U.S. This is true in terms of actively encouraging further liberalization in other countries, as well as of developing our own markets' efficiency. It maintains the international financial role of the U.S. while seeking better treatment for U.S. banks and financial firms overseas.

I hope the Committee will concur in this analysis. I assure you that the Treasury will continue its efforts for improved treatment of U.S. banks and financial firms overseas. The Administration appreciates your continuing interest and is grateful for your support.

The CHAIRMAN. Thank you, Mr. Secretary. I know you have to leave.

CONGRESS' MESSAGE—NEED NATIONAL TREATMENT FOR U.S. BANKS

Let me just respond to your comments about not wanting to go ahead with legislation at this time. I think it should be evident to anyone, from the fact that I introduced the bill last year but delayed the first hearing until today, that my intent was not to rush to passage or premature decisions. Rather, my intent was to send a message that Congress was interested and was backing the Treasury Department in attempting to secure national treatment for U.S. banks abroad. That is exactly why the legislation was introduced. But because we are not pushing for passage of legislation at this time, that does not mean that we will not continue to monitor the situation. We expect a great deal more than the crumbs that have been extended to us thus far. Legislation will remain a threat—this bill or stronger legislation, if it is necessary—if progress does not continue.

That was the reason we asked for the 1984 update and we will be asking for more updates of the situation to judge progress.

I think I speak for the entire committee in saying that we want the world to know that we are watching and, while the legislation is not being pushed, it could be at any time. It will be reintroduced

so that it will be sitting there if your efforts in trying to work for national treatment are not reciprocated by these countries with more progress than we have seen.

So I do not disagree with what you have said, but I want that message to go out of this hearing very loud and very strong so our trading partners know that Congress—and this committee in particular—is going to watch the progress toward national treatment in those countries that have been the worst offenders.

Secretary REGAN. Mr. Chairman, I can assure you that in my discussions with other finance ministers between now and the time you reintroduce this legislation I will make them aware of this fact, that that option does remain open and is a reality.

The CHAIRMAN. Thank you very much. We appreciate your coming, in view of your schedule this week.

Secretary REGAN. Thank you very much for allowing me.

Senator HEINZ. Let me make one last quick comment, not a question, before you go, which has to do with the IMF's compensatory financing facility, which you and I have discussed and exchanged correspondence on.

As you know, last week Senators Hecht, Garn, Laxalt, and others introduced legislation urging you and the U.S. Executive Director to start voting against the use of the compensatory financing facility when it was being abused, as indeed we believe it is on many occasions, simply to support the overcapacity built into such industries as copper and others worldwide.

I understand that there have been some talks this week with the IMF constituents on this issue. We urge you to continue to pursue this issue because while there's no time to go into it here, it remains—I think you agree really in your letter—a serious concern of both of ours and yours.

Secretary REGAN. Not answering your question but commenting on your comment, I would just let you know that as late as yesterday noon at luncheon I discussed this very subject with the officials of the World Bank, not the CFF. As far as the World Bank is concerned, I specifically mentioned copper, and the interest you and other gentlemen have up here on this issue, and they assured me that they were very mindful of that.

On previous occasions I have talked to the Managing Director and others in the IMF about the CFF facility to make certain that it was used the way it was originally intended at Bretton Woods, which is when a nation has a crop failure the CFF is supposed to tide it over until the next crop. It is not supposed to be used to expand production. And I think also they're very sensitive to that issue at this point.

The CHAIRMAN. I'd like you to know that 5,000 unemployed copper workers in Utah support what Senator Heinz just said.

Secretary REGAN. I understand, Senator.

Senator SASSER. Mr. Chairman, is the minority not going to have the opportunity to ask questions?

The CHAIRMAN. Nobody has had the opportunity to question. The Secretary has to go to an IMF meeting.

Senator SASSER. Why didn't we just save ourselves some time and insert his statement in the record if his reading it meant we couldn't ask questions?

The CHAIRMAN. Well, I'm sorry, Senator. I announced at the beginning of the hearing that the Secretary would present his testimony—and he did not read it in its entirety—and Mr. Wallison would respond to questions for the Treasury. The Secretary was kind enough to break into his IMF meetings with all of the ministers here in order to present his testimony in person, and I will have to keep my commitment to the Secretary that I would allow him to present his statement and leave. Mr. Wallison will be responding to all of our questions.

None of us have had an opportunity to question the Secretary on either the minority or the majority side.

Thank you, Mr. Secretary.

[Response to written questions by Senator Proxmire:]

THE SECRETARY OF THE TREASURY
WASHINGTON

October 22, 1984

Dear Mr. Chairman:

Thank you for your letter and your kind words about my appearance before your Committee on September 26, when I testified on foreign government treatment of U.S. banks abroad. As I stressed in my testimony, the Treasury appreciates your Committee's continuing interest in the subject and looks forward to cooperating with you in the future.

Enclosed are my responses to the questions from Senator Proxmire.

Sincerely,

Donald T. Regan

The Honorable
Jake Garn
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, D.C. 20510

Enclosure

QUESTIONS AND ANSWERS

1. In November of 1981 Ambassador Brock appeared before the Banking Committee and indicated that our principal effort to remove non-tariff barriers on services such as banking should not be through protracted, bilateral negotiations. He favored a multilateral agreement on trade in services in the context of the GATT as the best route for dealing with this problem.

I note that on pp. 10 and 11 of your testimony you mention that the main obstacle to national treatment is in the less-developed countries. Yet in your testimony you mentioned only multilateral negotiations in the context of the OECD where the less-developed countries are not participants.

Can you tell us what progress the Administration is making, if any, in getting the GATT to deal with the problem of trade in services?

I understand we raised the issue at the 1982 GATT Ministerial and received only a lukewarm response from the other GATT contracting parties.

Answer

Some progress is being made in GATT on the services issues. The pace of progress is measured, but that should be expected, taking into account: (a) that GATT is a multilateral organization made up of diverse sovereign countries that jealously guard their negotiating options; and (b) the complexity and significance of services.

The measured progress consists of obtaining recognition of the legitimacy of the services issue and starting a work program. As part of that work program, the Administration in December 1983 presented a U.S. National Study on Trade in Services to the General Agreement on Tariffs and Trade. Two of the chapters in the study are on banking. They were drafted by the Department of the Treasury.

We expect that the work program will lead to negotiation on services as part of the next round of trade negotiations.

I would stress, however, that while multilateral approaches in both GATT and the OECD have their role, bilateral discussions can often be more effective. In my testimony of September 26, 1984, I stated:

In many cases, we deal with major problems on a bilateral basis. We will continue our bilateral efforts in the future. Multilateral efforts such as those in the OECD are a useful supplement, to help identify and understand the rationale for restrictions, to seek support from the international community for their removal, and to help prevent backsliding.

Should these efforts fail to provide a framework for continued progress, we will not hesitate to take vigorous actions to promote or protect our interests. I certainly would not close the door to other tactics or selective approaches. However, looking at the 1984 Update to the National Treatment Study, I conclude that national treatment currently remains the best policy for the U.S. This is true in terms of actively encouraging further liberalization in other countries, as well as of developing our own markets' efficiency. It maintains the international financial role of the U.S. while seeking better treatment for U.S. banks and financial firms overseas.

The Treasury Department believes strongly that vigorous bilateral efforts are the best method, at least initially, of making our views known and of achieving progress in specific areas that are of practical importance to U.S. banks. The progress recorded in the Report on Yen/Dollar Exchange Rate Issues provides an excellent example.

As countries progress up the scale of economic development and strengthen their capital and financial market structures, they seem to find it easier to undertake liberalization and more formal multilateral obligations. These can foster confidence and eventually lead to even further liberalization, resulting in greater efficiency of the domestic capital markets in the countries concerned.

As GATT work is at an early stage, no decisions have been made on how such work would cover the various service sectors, including financial services. One of the difficulties in dealing with such issues in the GATT is that officials from both less developed and developed countries who attend the GATT usually are trade officials; they are not officials who are responsible for finance and banking matters.

For industrial countries, the OECD provides a very valuable multilateral forum. We also make our general policy views known on the importance of welcoming foreign investment, stimulating competition and maintaining free markets at the International Monetary Fund, the International Bank for Reconstruction and Development, and other regional banks where less developed countries are members and are represented by financial officials.

2. I have read your and Mr. Williamson's testimony and you both indicated that you do not believe legislation is needed at this time to help our banks obtain national treatment abroad. You both believe our best bet is to pursue bilateral negotiations with particular problem countries.

Why would it not be helpful in such negotiations if the executive branch had in its arsenal discretionary authority such as is in Senator Garn's bill?

Answer

At present, we do not believe it is necessary to have the discretionary authority. We are making progress. If I feel such discretionary authority is necessary, I will request it. As noted in the excerpt contained in the answer to question No. 1, if our ongoing efforts fail to provide a framework for continued progress, "I certainly would not close the door to other tactics and selective approaches." The knowledge that your Committee is willing to consider making discretionary authority available is in itself useful in our negotiations.

3. Mr. Williamson noted in his testimony that since December 1973 the total assets of U.S. offices of foreign banks have increased tenfold to $328 billion and foreign banks now have a 14.6 percent market share of U.S. banking assets.

I note that in 1980 the GAO recommended that we should have a moratorium on the foreign acquisition of U.S. banks with total assets in excess of $100 million until we fully evaluated the dangers of such acquisitions.

Do you have any concern about the increasing role of foreign banks here?

Answer

In reviewing applications for foreign acquisitions of U.S. banks, the regulatory agencies place great weight on the financial strength and additional management contributions that the foreign parent would bring to the domestic U.S. bank. The application process affords opportunity for supervisors to reach understandings with the investing foreign banks regarding their future plans, including in some recent cases an increase in the capital of the U.S. banks being acquired.

As long as foreign banks are subject to the full U.S. regulatory process and supervision by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and Federal Reserve System, I do not have particular concerns about either the application process or the role of foreign banks in the U.S.

My more general concerns extend both to domestic and foreign banks operating in the U.S., i.e., to their capital adequacy, asset quality, management depth and competence, earnings levels and liquidity. In this regard, I believe U.S. banking laws and regulations provide adequate safeguards to the public and to the banking system. The presence of foreign banks in our markets helps to strengthen banking competition and the efficiency of our financial institutions. It also develops the U.S. as an international financial center.

The CHAIRMAN. Mr. Wallison, one of the witnesses we will have after you representing the Bankers' Association for Foreign Trade says in his prepared remarks that it would be useful to request the Department of the Treasury to update on a selective and periodic basis its national treatment study. I have just indicated to the Secretary that I expected the committee to ask for that.

NEED FOR MORE FREQUENT REPORTS

Would you agree that it would be helpful to your efforts if we had more frequent updates than every 6 years?

Mr. WALLISON. Yes; I agree with that. I think, Mr. Chairman, that we would find that to be a useful process. It has been an educational process for all of us at the Treasury Department and it does assist our negotiating activities. So from time to time, we would propose to update, and if this committee wants to make such a request we will be happy to respond.

The CHAIRMAN. Given the internationalization of the markets for a wide variety of financial services, do you think the next update might focus on foreign government treatment of all U.S. financial service organizations instead of just on banks?

Mr. WALLISON. I would be somewhat concerned about that, Senator. Once we get beyond the banking area, we are getting into a very complex and difficult area to define.

At the moment, the OECD countries are beginning a study of the securities and financial services rules, regulations, laws that are applicable within each of the countries. We are participating in that. We are attempting to identify those areas where there are undue restrictions and denials of national treatment within the OECD countries. We would like, to the extent possible, to continue with that process of participating in and identifying these areas with the cooperation of the OECD countries themselves and the OECD Secretariat, rather than attempting to an independent study of the financial services area beyond banking activity.

I think Treasury resources, and the resources of the people at the Comptroller's Office and the Treasury in general would be better used to work with the OECD countries rather than doing a study of our own.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. I have no questions at this point, Mr. Chairman.

The CHAIRMAN. Senator Hecht.

Senator HECHT. No questions.

The CHAIRMAN. Senator Gorton.

Senator GORTON. No questions.

The CHAIRMAN. Boy, did we let you off easy. Thank you very much.

Mr. WALLISON. Thank you, Senator.

The CHAIRMAN. Gentlemen, we are happy to have you with us. We are honored to have Mr. Peter Howell, vice president of Citibank; and Mr. Robert P. Williamson, president, Bankers' Association for Foreign Trade and senior vice president, Security Pacific National Bank, to testify on this issue.

Mr. Howell, would you like to begin, please?

STATEMENT OF PETER HOWELL, VICE PRESIDENT, CITIBANK, N.A.

Mr. HOWELL. Thank you, Mr. Chairman. I have a brief statement which, if you wish, I will read, and then I would be happy to answer questions.

I am responsible for our corporate and government marketing activities in the Asia-Pacific region. I have been involved in our efforts to achieve national treatment for a period which extends back to the 1978 International Banking Act.

I oversaw the preparation of our input to the original "1979 National Treatment Study" as well as this year's update.

I might comment right at the outset that our position on national treatment, which is a principle we of course strongly support, derives from and relates closely to our institutional commitment to equal competitive treatment in all markets, foreign and domestic.

I was invited here on rather short notice so I'm going to confine my brief remarks to two areas; the first being a summary of the national treatment situation in the area for which I am responsible, the Asia-Pacific region; and second, a few remarks on the legislative and administrative process as it relates to this issue.

CITIBANK PLEASED WITH DEVELOPMENTS TO DATE

In general, we are pleased with developments to date and encouraged by the prospects for continued progress toward equal competitive opportunity for American banks in Asia. Japan and Korea are the most noteworthy examples of countries which have taken significant steps toward national treatment for foreign banks, and we are hopeful, and indeed confident, that despite the difficulties involved, the Governments of Japan and Korea will continue to accord priority to the implementation of effective national treatment for foreign banks.

We have likewise been pleased by what is, from our viewpoint, the firm and enlightened approach of the Hawke government in Australia in liberalizing its financial markets and providing a larger role for foreign financial institutions. While we remain a good distance from true national treatment in Australia, we are encouraged by the considerable progress in that direction in a relatively short period.

Taiwan is an increasingly important market for us—and, for that matter, many other American banks—and as one of the world's most remarkable economic success stories, we have great respect for its economic management in overall terms. Yet despite some initial steps toward national treatment for foreign banks, we remain frustrated and somewhat disappointed concerning the opportunities available to us and other American banks to participate fully in Taiwan's ongoing economic development. We are especially hopeful that Taiwan will give foreign banks the opportunity to compete on terms equivalent to those governing the local banks.

While the People's Republic of China [PRC] was not referred to in the national treatment update, let me take this opportunity to express some hope that as that country develops its financial infrastructure and seeks to attract investment, it will consider formulating the laws and regulations applicable to its financial sector on the basis of national treatment.

There are other countries in Asia where we would very much like to see particular regulations or policies changed to accord with the principle of national treatment, but with the exception of the PRC, the countries I have mentioned are the ones in which we believe the level of economic development permits, and indeed warrants, a more liberal and competitive financial market.

Now let me briefly address the national treatment process. Needless to say, we believe it's been extremely constructive, and I refer especially to the efforts of this committee, in particular your efforts, Mr. Chairman, and the various executive departments, most notably Treasury, supported by State and the Office of the U.S. Trade Representative.

We agree, in general, with the more comprehensive statement to be presented to this committee by Mr. Williamson. We concur in particular that the introduction of S. 2193, coupled with the update, constituted a strong inducement to foreign governments to examine their banking regulations as they apply to foreign banks, for which, I repeat, this committee deserves commendation. As I've stated, a number of governments have committed to take significant steps toward national treatment. While the timetables for these programs remain somewhat ill-defined, we believe our response should be positive and in good faith. We therefore recommend that the legislation be held in abeyance for the time being, while we assess progress in the countries committed to national treatment programs and, equally important, the disposition of countries not so committed to initiate steps toward national treatment. The oversight process should continue and include periodic status reports or updates on selected countries, supported, as appropriate or necessary, by hearings.

Let me say again in closing that Citibank appreciates the interest and initiative shown by this committee on this important subject, and we are glad to have had the opportunity to comment here this morning.

I'll be pleased, of course, to answer questions.

[The complete statement follows:]

STATEMENT OF PETER HOWELL, VICE PRESIDENT, CITIBANK, N.A.

I am Peter Howell, a Citibank Vice President, and I'm responsible for our corporate and government marketing activities in the Asia-Pacific region. In that capacity, I've been involved in this so-called national treatment issue for a period which extends back beyond the 1978 International Banking Act, and I oversaw the preparation of our input to the original 1979 national treatment study as well as this year's update.

Perhaps I should comment at the outset, as I often do in conversation with our regulators in Asia, that our position on national treatment -- which is a principle we, of course, strongly support -- derives from our broader institutional commitment to equal competitive treatment in all markets, foreign and domestic. We do not espouse that principle or seek that opportunity selectively -- not, for example, just in Korea or in Canada -- but universally, and nowhere more strenuously than right here in the United States.

I was invited to appear here on very short notice, so I will confine my brief comments to two areas:

-- a summary of the national treatment situation in Asia, and

-- a few remarks on the legislative and administrative

process as it relates to this issue.

In general, we are pleased with developments to date and encouraged by the prospects for continued progress toward equal competitive opportunity for American banks in Asia. Japan and Korea are the most noteworthy examples of countries which have taken significant steps toward national treatment for foreign banks, and we are hopeful, and indeed confident, that despite the difficulties involved, the governments of Japan and Korea will continue to accord priority to the implementation of effective national treatment for foreign banks.

We have likewise been pleased by what is, from our viewpoint, the firm and enlightened approach of the Hawke government in Australia in liberalizing its financial markets and providing a larger role for foreign financial institutions. While we remain a good distance from true national treatment in Australia, we are encouraged by the considerable progress in that direction in a relatively short period.

Taiwan is an increasingly important market for us -- and for that matter many other American banks -- and as one

of the world's most remarkable economic success stories, we have great respect for its economic management in overall terms. Yet despite some initial steps toward national treatment for foreign banks, we remain frustrated and somewhat disappointed concerning the opportunities available to us and other American banks to participate fully in Taiwan's on-going economic development. We are especially hopeful that Taiwan will give foreign banks the opportunity to compete on terms equivalent to those governing the local banks.

While the People's Republic of China was not referred to in the national treatment update, it is perhaps timely to express the hope that as the country develops its financial infrastructure and seeks to attract investment, it will consider formulating the laws and regulations applicable to its financial sector on the basis of national treatment.

There are other countries in Asia where we would very much like to see particular regulations or policies changed to accord with the principle of national treatment, but with the exception of the PRC, the countries I have mentioned are the ones in which we believe the level of economic development permits a more liberal and competitive financial market.

Now let me briefly address the national treatment process. Needless to say, we believe it's been extremely constructive, and I refer especially to the efforts of this Committee and the various executive departments, most notably Treasury, supported by State and the Office of the Special Trade Representative.

We agree, in general, with the more comprehensive statement presented to this Committee by Mr. Williamson. We concur in particular that the introduction of S. 2193, coupled with the update, constituted a strong inducement to foreign governments to examine their banking regulations as they apply to foreign banks, for which this Committee deserves commendation. As I've stated, a number of governments have committed to take significant steps toward national treatment. While the timetables for these programs remain somewhat ill-defined, we believe our response should be positive and in good faith. We therefore recommend that the legislation be held in abeyance for the time being, while we assess progress in the countries committed to national treatment programs and, equally important, the disposition of countries not so committed to initiate steps toward national treatment. The oversight process should continue and include periodic status reports or updates on selected countries, supported, as appropriate or necessary,

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by hearings.

Let me again say in closing that Citibank appreciates the interest and initiative shown by this Committee in this important subject, and we're glad to have had the opportunity to comment here this morning.

I'll be pleased, of course, to answer questions.

The CHAIRMAN. Thank you very much, Mr. Howell.
Mr. Williamson.

STATEMENT OF ROBERT P. WILLIAMSON, PRESIDENT, BANKERS' ASSOCIATION FOR FOREIGN TRADE, SENIOR VICE PRESIDENT, SECURITY PACIFIC NATIONAL BANK

Mr. WILLIAMSON. Thank you, Mr. Chairman.

Inasmuch as I am sure that I am not as well known as some of the previous people appearing here this morning, I will repeat again that I am here this morning as president of the Bankers' Association for Foreign Trade which I will refer to from here on out as BAFT. I happen to also be a senior vice president and deputy group administrator for the world banking group of Security Pacific National Bank in Los Angeles.

I have personally been very familiar with this subject for many, many years, having lived in Asia for some 9 years and having worked with this problem on a day-to-day basis.

As all of you know, BAFT for many years has been and continues to make a major commitment to international banking education and to legislative and regulatory activity in the international banking area.

I am especially pleased this morning to be following Secretary Regan and his staff. I want to commend them for the outstanding job they have been doing in negotiating national treatment for U.S. banks abroad.

We would also like to commend you, Mr. Chairman, for your great interest and leadership which you have demonstrated in support of obtaining national treatment for U.S. banks.

Certainly as a result of these longstanding efforts we have recently seen significant improvement in a number of countries, probably most notably Japan and Canada.

I might also add parenthetically, as the Secretary did earlier, that I just attended yesterday a meeting with Mr. Keating, Treasurer of Australia, in which he outlined their new deregulation policies.

In our statement this morning we would like to address three principal issues. First, the types of barriers which U.S. banks have encountered abroad; second, the importance of U.S. bank services

abroad to our economy; and third, the need for a policy of effective national treatment. In this latter connection, incidentally, we would continue to recommend that, given the importance of Congress' oversight function in this area, it would be useful to request the Department of Treasury, as you suggest, Mr. Chairman, to update on a selective and periodic basis its national treatment study.

FOREIGN IMPEDIMENTS TO U.S. BANKING ABROAD

First, the types of prohibitions and restrictions facing U.S. banks abroad. U.S. banks are well aware of the differences in the world's banking systems and we have no objection to laws that are uniformly applied to all banking institutions in a particular foreign country. What we object to are laws or practices in foreign countries that unfairly discriminate against foreign banks and thus against U.S. banks abroad.

The "National Treatment Study," the Department of Treasury's 1984 update of that study, and numerous other studies, all provide a comprehensive catalog of the types of discriminatory restrictions U.S. banks face in their overseas operations.

First, and probably most basic, are direct prohibitions and restrictions on the establishment of banking operations. These run the gamut from absolute prohibitions to restrictions on forms of operations. Sometimes—incidentally, I've witnessed this to a considerable extent—these are matters of administrative policy or practice rather than statutory law.

Second, U.S. banks often face discriminatory operating restrictions that can negate or reduce opportunities presented by what appear to be open entry policies. Some types of operating restrictions impose higher operating costs, discriminatory taxes, et cetera, on U.S. and other foreign banks that have left with them a competitive disadvantage with local banks. Other types of operating restrictions deny U.S. and other foreign banks competitive opportunities available to their local counterparts. For example, they may be prohibited from engaging in certain types of services or activities and their offering of such services sometimes is subject to absolute limits, otherwise known as the corset approach.

Third, there are restrictions that concern government regulations, often aimed at nonbanking objectives, which nonetheless have a bearing on banking operations. Certain foreign exchange controls, regulations concerning the transmission of data across national boundaries, immigration controls and other restrictions regarding the use of foreign personnel, professional licensing requirements, et cetera, are some examples.

In connection with the Department of Treasury's update of the "National Treatment Study," BAFT submitted comments to the Treasury on the banking policies of eight countries. Given the constraints of time and resources, we felt it would be best to concentrate our efforts on a small group of countries that appeared to be of great interest to our members and that presented significant and immediate concerns regarding national treatment. We believe that the Department of Treasury has done an outstanding job in that update.

Second is the importance of U.S. banking services abroad. The numerous studies, the "Trade in Services Study," submitted by the United States to GATT in December 1983, and others, certainly set forth the importance of services to the United States and world economy.

INTERNATIONAL SERVICES SECTOR EXCEEDED $350 BILLION IN 1980

We might indicate that official statistics show that world trade in services exceeded $350 billion in 1980; the United States is the largest exporter of services; and services, including Government, now account for two-thirds of U.S. gross national product and about 70 percent of U.S. employment; and that of the 20-million new jobs created by the U.S. economy in the 1970's, 90 percent were in services.

Obviously, the growth and importance of the international banking services sector is particularly striking. As of December 31, 1983, U.S. member banks were operating 890 branches in 72 foreign countries. I noted that the Secretary mentioned 73. We are not going to quibble over one country more or less. Assets at foreign branches of member banks, including assets at branches in overseas areas of the United States, were estimated at $345 billion as of December 31, 1983.

That all sounds very impressive. Notwithstanding the dramatic growth in foreign assets and profits of U.S. banks, this same study noted that the U.S. market share of all international banking has in fact been declining continuously since 1965. If you read a listing of top banks in the world, you would have noted many years ago these were led by largely U.S. banks. Look at the list today and you will see a very different picture.

This competition is amply documented by the growth of foreign banks in the United States. Since December 1973, the total assets of U.S. offices of foreign banks have increased tenfold and foreign banks' market share of U.S. banking assets over the same period has increased almost 400 percent. Growth has been particularly spectacular—if I may make a personal reference to this—in my home State of California where I would like to inform you that U.S. offices of foreign banks now have a market share of 32.8 percent of total banking assets in the State.

Looking at services more generally, one of the important reasons behind the continuing services boom in the United States is the growing dependence of the goods-producing sector on information and other services to increase its productivity, expand its domestic markets and improve its international trade competitiveness. As U.S. manufacturing companies expand, they become increasingly dependent on U.S. banks to provide them with a greater array of financing and information services. For U.S. banks to perform that function most effectively, they need access to important and growing markets abroad.

Simply put, economic activity is becoming more dependent on the international exchange of information and services, and certainly banks play a crucial role in this exchange. Reduction of the barriers previously described certainly would help strengthen the competitive position of U.S. banks in world markets and hopefully,

by doing so, will better enable them to serve both large and small U.S. business customers and thus contribute to a strong U.S. trade position in world markets.

Last, as to a policy of effective national treatment, the rapid growth of foreign bank operations in the United States during the 1970's led to the enactment of the International Banking Act of 1978 which established national treatment as the guiding U.S. policy toward foreign bank operations in this country. While some had advocated in the past that regulation of foreign banks in the United States should follow a reciprocity principle, we believe this principle was rightly rejected for two basic reasons. First, given the great diversity of banking systems in the world, it would probably have been unworkable. Second, such a policy, in some cases, would have resulted in foreign banks engaging in U.S. activities, in fact, denied to U.S. banks.

PRAGMATIC APPROACH TO NATIONAL TREATMENT

Congress took a pragmatic and sensible approach to national treatment in the International Banking Act that not only met most of the competitive concerns of U.S. banks but also eliminated any possible demands for retaliation against larger U.S. bank interests abroad.

In considering what should be the proper thrust of U.S. policy toward removing barriers to U.S. banks abroad, we believe the International Banking Act's pragmatic approach to national treatment has done much to recommend it. There is great diversity among the world's banking systems and thus a fairly rigid approach to national treatment is likely to prove unworkable in many countries.

In essence, in securing national treatment for U.S. banks abroad, U.S. policymakers will, as in any other negotiation, have to make judgments as to what is most important for U.S. banks and what is obtainable within the confines of sometimes very different banking systems. The goal should be to obtain effective national treatment within a country which allows U.S. banks to engage in the services and activities they need or want to perform on terms that are basically equivalent to those applied to local banks. This type of effective national treatment can only be obtained through long, painstaking, and often difficult bilateral negotiations. In this connection, recent progress that has been achieved has largely been obtained as the result of longstanding efforts by U.S. officials and we believe the administration, and Secretary Regan in particular, are to be commended for their efforts.

We believe the introduction of S. 2193 and the chairman's request for an update of the "National Treatment Study" have also sent an important signal abroad that the U.S. Congress views national treatment as a two-way, not a one-way, street. We would like to see this pressure maintained.

One way obviously would be of course to enact legislation such as S. 2193, which takes the highly reasonable approach of making the treatment of U.S. banks abroad one among many factors to be considered by the Comptroller in acting on applications to establish Federal branches or agencies in this country. The problem obvious-

ly with legislation is that it is difficult to construct a universal legislative standard that is meaningful, pragmatic, and consistently helpful to U.S. bank interests abroad.

As I noted previously, U.S. banks often encounter their most serious obstacles abroad in the form of informal policies or administrative practices. The easing of these restrictions generally has to be worked out through bilateral negotiations. A foreign law formally permitting bank entry is not particularly helpful if informal operating restrictions make actual operations unfeasible. Thus, any legislative standard would have to be highly discretionary. Nonetheless, we have noted the chairman's indication that that should be in the forefront. We are only suggesting that an alternative at this stage at the present time, at least to enacting legislation perhaps, might be for Congress to continue to exercise its highly effective oversight functions by periodically requesting the Department of Treasury to update its national treatment review for selected problem countries.

We would, of course, be pleased to pledge our continued cooperation to provide information and our views in connection with these updates.

Mr. Chairman, thank you for giving us the opportunity to present our views on this important subject. I would, of course, be pleased to answer questions.

[The complete statement follows:]

STATEMENT OF

ROBERT P. WILLIAMSON

My name is Robert P. Williamson and I am President of the Bankers' Association for Foreign Trade ("BAFT"). I am also Senior Vice President of Security Pacific National Bank of Los Angeles.

Since its founding in 1921, BAFT has sought to develop sound banking procedures and services in support of trade. Beginning in the mid 1970s, BAFT made a major commitment to international banking education and to legislative and regulatory activities in the international banking area. Today, BAFT's voting membership of 135 U.S. banks includes virtually all of those having significant international operations.

I am especially pleased this morning to be following Secretary Regan because he and his staff at the Department of Treasury have been doing an outstanding job in negotiating national treatment for U.S. banks abroad. We would also like to commend you Mr. Chairman for the great interest and leadership which you have demonstrated in support of obtaining national treatment for U.S. banks. As a result of the long-standing efforts by Secretary Regan and the Treasury Department and the important support which you and other members of Congress have provided, we have seen recent significant improvements in a number of countries, most notably Japan and Canada. We believe the introduction of S. 2193 and the update of the Comptroller's 1979 Report to Congress on Foreign Government

Treatment of U.S. Commercial Banking Organizations (the "National Treatment Study") have had an important impact in supporting the Administration's hard-won successes and in convincing other countries that the U.S. Congress is committed to obtaining national treatment for U.S. banks abroad.

In our statement this morning, we would like to address three principal issues: (i) the types of barriers which U.S. banks have encountered abroad; (ii) the importance of U.S. bank services abroad to our economy; and, (iii) the need for a policy of effective national treatment. In this latter connection, we would like to recommend that, given the importance of Congress' oversight function in this area, it would be useful to request the Department of Treasury to update, on a selective and periodic basis, its national treatment study.

TYPES OF PROHIBITIONS AND RESTRICTIONS FACING U.S. BANKS ABROAD

U.S. banks are well aware of the differences in the world's banking systems and we have no objection to laws that are uniformly applied to all banking institutions in a particular foreign country. We seek to be good citizens in whatever country we are doing business. What we object to are laws or practices in foreign countries that unfairly discriminate against foreign banks and thus against U.S. banks abroad.

The National Treatment Study, the Department of Treasury's 1984 Update of that study (the "1984 Study")[1/], and the U.S. National Study On Trade in Services prepared under the direction of the Office of the United States Trade Representative (the "Trade in Services Study") provide a comprehensive catalogue of the types of discriminatory restrictions U.S. banks face in their overseas operations.

First, and most basic, are prohibitions and restrictions on the establishment of banking operations, the most important of which are summarized in Exhibit A. Prohibitions and restrictions on establishment run the gamut from absolute prohibitions to restrictions on forms of operations. Sometimes, these types of restrictions or prohibitions are matters of administrative policy or practice rather than statutory law, e.g. official policy is such that no foreign bank would ever be given permission to acquire a local bank.

Second, in addition to establishment restrictions, U.S. banks often face discriminatory operating restrictions that can negate or reduce opportunities presented by what appear to be open entry policies. It is not enough to estab-

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1/ Department of Treasury, "Report to Congress On Foreign Government Treatment Of U.S. Commercial Banking Organizations," 1984 Update.

lish a physical presence in a foreign country: one must also be given the opportunity to operate in a profitable and competitive manner in that country. Again, these restrictions can be matters of administrative practice and can be relatively subtle in their application to foreign bank operations.

Some types of operating restrictions impose higher operating costs on U.S. and other foreign banks and thus put them at a competitive disadvantage with local banks in providing services. These types of restrictions have been described as "tax-like" in character because they have cost effects that are equivalent to the imposition of a discriminatory tax. Other types of operating restrictions deny U.S. and other foreign banks competitive opportunities available to their local counterparts in foreign markets. For example, in some cases, U.S. and other foreign banks are prohibited from engaging in certain types of services or activities that local banks can offer. In other cases, U.S. and other foreign banks find that while they can offer services provided by local banks, their offering of such services is subject to absolute limits or other special requirements that do not apply to local banks. A basic laundry list of the most common types of discriminatory operating restrictions encountered by U.S. banks abroad is included in Exhibit B.

Third, there are restrictions that concern government regulations, often aimed at nonbanking objectives, which hamper U.S. and other foreign banks in competing with local banks. Among these more general types of restrictions are (i) certain foreign exchange controls, (ii) regulations concerning the transmission of data across national boundaries, (iii) immigration controls and other restrictions regarding the use of foreign personnel, (iv) professional licensing requirements, and (v) rules governing the publication of financial statements.

In connection with the Department of Treasury's update of the National Treatment study, BAFT submitted comments to the Treasury on the banking policies of eight countries: Mexico, Taiwan, Sweden, Brazil, Australia, the Philippines, Canada and South Korea. Given the constraints of time and resources, we felt it would be best to concentrate our efforts on a small group of countries that appeared to be of great interest to our members and that presented significant, immediate concerns regarding national treatment. We believe our comments were carefully considered by the Treasury and generally support their characterization of progress, or the lack thereof, toward national treatment in the sixteen countries they studied. Overall, we believe the Department of Treasury has done an outstanding job in the Update.

IMPORTANCE OF U.S. BANKING SERVICES ABROAD

Growth of Banking and Other Services

The Trade in Services Study, which was submitted by the United States to the General Agreement on Tariffs and Trade ("GATT") in December, 1983, set forth in compelling detail the importance of services to the U.S. and world economy:

- o official statistics show that world trade in services exceeded $350 billion in 1980;
- o the United States is the largest exporter of services ($34.9 billion in 1980), and it is believed the amount U.S. service exports are much greater than those reported;
- o services, including government, now account for two-thirds of U.S. gross national product and 70 percent of U.S. employment; and
- o of the 20 million new jobs created by the U.S. economy in the 1970s, 90 percent were in services.

The growth and importance of the international banking services sector is particularly striking. As of December 31, 1983, U.S. member banks were operating 890 branches in 72 foreign countries.[1/] (Exhibit C provides a country-by-country breakdown of U.S. member bank foreign branches.) Assets at foreign branches of member banks, including assets

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1/ Source: Federal Reserve Board.

at branches in overseas areas of the U.S., were estimated at $345 billion as of December 31, 1983. (Exhibit D compares the number and total assets of foreign branches of member banks and their Edge Act and Agreement Corporation subsidiaries for the years 1973-1983). From 1973 to 1983, there has been slightly over a 300 percent increase in the amount of U.S. member bank branch assets overseas.

In a study done for the Departments of State and Commerce and Office of United States Trade Representative, Economic Consulting Services, Inc. ("ECS") estimated that foreign revenues from the international business operations of the U.S. banking industry in 1980 were $9.1 billion (on a net basis), making banking the second largest U.S. service sector in terms of revenue. The ECS Study noted that non-interest income from international banking has recently increased at a higher rate than interest income. This confirms the view of many U.S. banks with international operations that fees from non-asset based services will become an increasingly important source of revenues and competitive advantage in the years ahead.

Notwithstanding a dramatic growth in foreign assets and profits of U.S. banks, the ECS Study noted that the U.S. market share of all international banking, measured by the world supply of deposits held by major U.S. institutions, has

been declining continuously since 1965. While we question the use of total deposits as a true "market share" measure in international banking, it is nonetheless clear that U.S. banks have been facing increasingly stiff competition in providing international banking services both at home and abroad.

This competition is amply documented by the growth of foreign banks in the U.S. Since December 1973, the total assets of U.S. offices of foreign banks have increased tenfold to $328.9 billion and foreign banks' market share of U.S. banking assets over the same period has increased almost 400 percent, from a 3.8 percent market share in 1973 to a 14.6 percent market share in 1983. See Exhibit E. Growth has been particularly spectacular in my home State of California where U.S. offices of foreign banks now have a market share of 32.8 percent of total banking assets in the State. See Exhibit F.

Reasons for the Growth in Banking and Other Services

The rapid growth of U.S. bank operations abroad commenced with the emergence of the United States in the post World War II period as the principal economic and financial power in the world economy. The progressive dismantling of restrictions on international trade and capital movements, the expansion overseas of major U.S. corporations, advances in transportation and communications technology and the

increasing internationalization of markets for goods and services have all contributed to the continued growth of U.S. bank operations abroad.

Looking at services more generally, the Trade in Services Study states that one of the important reasons behind the continuing services boom in the United States is the growing dependence of the goods-producing sector on information and other services to increase its productivity, expand its domestic markets and improve its international trade competitiveness. As U.S. manufacturing companies expand, they become increasingly dependent on U.S. banks to provide them with a greater array of financing and information services that will enable them to penetrate markets abroad and meet foreign competition in markets at home. For U.S. banks to perform that function most effecively, they need access to important and growing markets abroad, so that they can meet customers' needs for financial assistance and for information and advice on the multifaceted problems encountered in international operations.

Simply put, economic activity is becoming more dependent on the international exchange of information and services. Banks play a crucial role in this exchange. Elimination or reduction of the barriers previously described will strengthen the competitive position of U.S. banks in

world markets and, by doing so, will better enable them to serve both large and small U.S. business customers, and thus contribute to a strong U.S. trade position in world markets.

A POLICY OF EFFECTIVE NATIONAL TREATMENT

The rapid growth of foreign bank operations in the U.S. during the 1970s led, of course, to the enactment of the International Banking Act of 1978 ("IBA") which established national treatment as the guiding U.S. policy toward foreign bank operations in this country. While some had advocated that regulation of foreign banks in the U.S. should follow a reciprocity principle, permitting or denying foreign banks from doing in the U.S. what U.S. banks are permitted or denied abroad, this principle was rejected for two basic reasons. First, given the great diversity of banking systems in the world, it would have been unworkable. Second, such a policy, in some cases, would have resulted in foreign banks engaging in U.S. activities denied to U.S. banks, for example, the underwriting and distribution of corporate securities.

The IBA's approach to national treatment, in the context of specific regulatory issues, was highly pragmatic. Foreign banks were not made mechanically subject to all U.S. banking laws and regulations. In the areas of branching,

deposit insurance and nonbank activities, provisions were crafted which applied national treatment in light of the structure of foreign bank operations, concerns about the extraterritorial reach of U.S. laws and the interests of individual States. Congress took a pragmatic and sensible approach to national treatment in the IBA that not only met most of the competitive concerns of U.S. banks but also eliminated any possible demands for retaliation against larger U.S. bank interests abroad.

In considering what should be the proper thrust of U.S. policy toward removing barriers to U.S. banks abroad, we believe the IBA's pragmatic approach to national treatment has much to recommend it. There is great diversity among the world's banking systems and thus a rigid approach to national treatment is likely to prove unworkable in many countries, especially those developing countries that are in the midst of trying to establish their own local banking systems. A highly legalistic approach to national treatment can also disserve U.S. banks which may find legal opportunities greatly circumscribed by informal policies or administrative practices, or which, at times, may need special rules that take into account the more specialized nature of U.S. bank operations in a particular country.

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In essence, in securing national treatment for U.S. banks abroad, U.S. policy-makers will, as in any other negotiation, have to make judgments as to what is most important for U.S. banks and what is obtainable within the confines of sometimes very different banking systems. The goal should be to obtain "effective" national treatment within a country which allows U.S. banks to engage in the services and activities they need or want to perform on terms that are basically equivalent to those applied to local banks. This type of "effective" national treatment can only be obtained through long, painstaking and often difficult bilateral negotiations. In this connection, recent progress that has been achieved has largely been obtained as the result of longstanding efforts by U.S. officials and we believe the Administration, and Secretary Regan in particular, are to be commended for their efforts.

We believe the introduction of S. 2193 and the Chairman's request for an update of the National Treatment study have also sent an important signal abroad that the U.S. Congress views national treatment as a two-way not a one-way street. In this regard, it seems more than coincidental that a number of countries announced changes in their policies toward foreign banks before the 1984 Update was completed. We would like to see this pressure maintained.

One way would be, of course, to enact legislation such as S. 2193, which takes the highly reasonable approach of making the treatment of U.S. banks abroad one among many factors to be considered by the Comptroller in acting on applications to establish federal branches or agencies. The problem with legislation is that it is difficult to construct a universal legislative standard that is meaningful, pragmatic, and consistently helpful to U.S. bank interests abroad.

As noted previously, U.S. banks often encounter their most serious obstacles abroad in the form of informal policies or administrative practices. The easing of these restrictions generally has to be worked out through bilateral negotiations. If foreign governments felt they only had to comply with a highly legalistic standard in U.S. law, it could possibly undermine negotiating efforts toward the relaxation of such important informal restraints. A foreign law formally permitting bank entry is not particularly helpful if informal operating restrictions make actual operations unfeasible. Thus, any legislative standard would have to be highly discretionary and it is unclear, at present, whether U.S. regulatory authorities, in deciding foreign bank applications in this country, want to be put in the position of having to exercise such broad authority.

As an alternative to enacting legislation, at least at the present time, the best course may be for the Congress to continue to exercise its highly effective oversight function by periodically requesting the Department of Treasury to update its National Treatment review for selected "problem" countries. A two-year interval may be appropriate for such a limited update, as it would give each Congress an opportunity to review progress and determine whether legislation is necessary. Because these updates impose a significant administrative burden on the Department of Treasury and other departments and agencies, it would be best, as in the most recent update, to focus on a relatively few countries that are important to U.S. interests and which present pressing problems. We would, of course, be pleased to pledge our continued cooperation to provide information and our views in connection with such updates.

Mr. Chairman, thank you for giving us the opportunity to present our views on this important subject. I would, of course, be pleased to answer questions.

EXHIBIT A

PROHIBITIONS AND RESTRICTIONS AFFECTING THE RIGHT TO ESTABLISHMENT OF BANKING OPERATIONS ABROAD

- o Complete prohibitions on the establishment of any banking presence by foreign banks.
- o Prohibitions on the establishment of any type of banking operation by a foreign bank other than a representative office or correspondent relationship with a local bank.
- o Prohibitions on the purchase by a foreign bank of any equity interest in a local bank.
- o Limitations on the level of foreign equity participation in local banks or limits on the degree of foreign control of local banks.
- o Limitations on the level of foreign equity participation in consortium banks (joint ventures) or so-called near-bank enterprises.
- o Prohibitions on the establishment of branches (but not subsidiaries) of foreign banks.
- o Excessive local capital requirements for branches of foreign banks.

EXHIBIT B

TYPES OF DISCRIMINATORY OPERATING RESTRICTIONS ENCOUNTERED ABROAD

o Reserve requirements applied in ways that affect foreign banks more heavily than domestic banks.

o Liquidity or capital/assets ratios whose impact is more severe on foreign banks than on local banks.

o Taxation that weighs more heavily on foreign banks than on their domestic counterparts.

o Prohibitions against foreign banks undertaking exchange transactions that may be undertaken by local banks.

o Restrictions on the repatriation of funds or profits by foreign banks.

o Restricted access to rediscount facilities available to local banks.

o Overall capitalization limits that only apply to foreign banks operations.

o Credit or lending ceilings applied unequally against foreign banks.

o Specified loan portfolio structures applied unequally against foreign banks.

o Swap limits, or otherwise restricted access to local currency funding for foreign banks.

o Ceilings or prohibitions on foreign bank loans in domestic or foreign currencies.

o Restricted foreign bank access to local government deposits.

o Restrictions on the amount or types of securities or other financial assets that can be acquired by foreign banks.

o Restrictions on the ability of certain depositors, such as mutual funds or insurance companies, to deposit funds in foreign banks.

o Prohibitions or limitations on foreign banks' acceptance of retail or certain other kinds of public deposits.

o Prohibitions or policies which limit the types of domestic or international banking services which foreign banks can offer.

o Prohibitions or limitations on branching or other forms of expansion by foreign banks.

o More stringent or restrictive enforcement of apparently non-discriminatory regulations on foreign bank operations.

EXHIBIT C

BRANCHES OF MEMBER BANKS IN FOREIGN COUNTRIES

AS OF: DECEMBER 31, 1983 1/

COUNTRY NAME	TOTAL
Argentina	72
Austria	1
Bahamas, The	78
Bahrain	8
Barbados	5
Belgium	9
Bolivia	4
Brazil	20
British Virgin Islands	2
Brunei	4
Cayman Islands	95
Chile	13
China	1
China (Taiwan)	13
Denmark	3
Dominican Republic	17
Ecuador	15
Egypt	7
El Salvador	2

1/ Source: Federal Reserve Board data bank.

COUNTRY NAME	TOTAL
France	15
Gabon	2
Germany, Federal Republic of	27
Greece	23
Guadeloupe	1
Guatemala	4
Guyana	1
Haiti	4
Honduras	3
Hong Kong	74
India	10
Indonesia	5
Ireland	4
Italy	19
Ivory Coast	4
Jamaica	3
Japan	32
Jordan	3
Kenya	2
Korea, Republic of	15
Lebanon	4
Liberia	4

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COUNTRY NAME	TOTAL
Luxembourg	4
Macao	1
Malaysia	6
Martinique	1
Mauritius	1
Mexico	5
Monaco	1
Netherlands	4
Netherlands Antilles	4
Nicaragua	4
Oman	2
Pakistan	7
Panama	36
Paraguay	13
Peru	6
Phillipines	15
Quatar	1
Romania	1
Senegal	1
Singapore	27
Spain	14
Sri Lanka	2
St. Christopher-Nevis-Anguill	1

COUNTRY NAME	TOTAL
Sudan	1
Switzerland	9
Thailand	2
Tunisia	2
United Arab Emirates	8
United Kingdom	69
Uruguay	8
Venezuela	4
TOTAL	890

EXHIBIT D

FOREIGN BRANCHES AND INTERNATIONAL BANKING

SUBSIDIARIES OF U.S. BANKS 1/

Year	NUMBER		TOTAL ASSETS (BILLIONS OF DOLLARS)	
	Foreign Branches 2/	Sections 25 and 25(a) Corporations	Foreign Branches 3/	Sections 25 and 25(a) Corporations
1973	699	103	108.8	6.9
1974	732	117	127.3	10.1
1975	762	116	145.3	9.1
1976	731 4/	117	174.5	11.6
1977	738	122	205.0	13.2
1978	761	124	232.0	16.8
1979	789	132	279.5	18.6
1980	787	162 5/	310.5	20.5
1981	841	220	343.3	21.6
1982	900	257	341.3	25.3
1983	890	266	345.0 (est.)	22.4

1/ Source: Figures for 1973-1979 are taken from the 1979 Annual Report of the Federal Reserve Board. Foreign branch figures for 1980 and after and figures for Sections 25 and 25(a) corporations for 1980 and after were supplied by Federal Reserve Board staff.

2/ Includes branches in overseas areas of the United States.

3/ Data are derived from year-end reports of conditions filed with the Comptroller of the Currency and Federal Reserve System, and may differ in certain respects from other statistical reports on overseas branch operations. The amounts shown are net of claims on other foreign branches of the same bank.

4/ Decrease from 1975 was due primarily to the conversion of 30 branches in Colombia into subsidiaries to conform with Columbian banking laws.

5/ Figures for 1973-1979 are total number of Sections 25 and 25(a) Corporations. Figures for 1980 and after are total number of offices of Sections 25 and 25(a) Corporations, which were permitted to open domestic branch offices by regulations adopted on June 21, 1979, pursuant to the International Banking Act of 1978.

Table 1

Selected Assets and Liabilities of
U.S. Offices of Foreign Banks 1/

	Amount ($ billions)					Share 2/ (percent)				
	Total Assets	Standard Banking Assets	Total Loans	Business Loans	Total Deposits	Total Assets	Standard Banking Assets	Total Loans	Business Loans	Total Deposits
December 1973	32.3	24.8	17.6	12.8	11.4	3.8	3.2	3.7	7.6	1.7
December 1974	46.1	36.9	27.0	18.8	17.0	4.9	4.3	5.1	9.5	2.3
December 1975	52.4	42.1	29.9	19.9	22.6	5.3	4.7	5.7	10.4	2.9
December 1976	61.3	48.5	35.4	19.7	26.1	5.8	5.1	6.4	10.2	3.1
December 1977	76.8	59.0	41.5	22.0	33.8	6.4	5.6	6.6	10.3	3.6
December 1978	109.1	87.6	65.3	32.7	46.3	8.0	7.3	8.8	13.1	4.5
December 1979	149.6	122.5	91.9	48.2	62.8	9.9	9.1	10.9	16.3	5.6
December 1980	200.6	163.8	121.4	59.6	80.4	11.9	11.0	13.4	18.2	6.6
December 1981 3/	250.6	216.4	157.7	73.6	101.8	13.5	12.9	15.4	19.2	7.7
December 1982	299.8	252.3	185.2	82.4	154.3	14.4	13.5	16.3	18.8	10.4
December 1983	328.9	275.0	193.3	84.5	181.2	14.6	13.6	15.6	18.3	11.0

1/ Agencies, branches, subsidiary commercial banks and New York investment companies. (U.S. offices of Puerto Rican banks are not included.)
2/ Amount shown in this table as percent of total amount shown in Table 10.
3/ Revised

Sources: FFIEC 002, FFIEC 010, FFIEC 012, FFIEC 014, FR 886a, and FR 105.

EXHIBIT E

Table 3

Selected Assets and Liabilities of
California Offices of Foreign Banks 1/

	Amount ($ billions)					Share 2/ (percent)				
	Total Assets	Standard Banking Assets	Total Loans	Business Loans	Total Deposits	Total Assets	Standard Banking Assets	Total Loans	Business Loans	Total Deposits
December 1973	9.5	5.6	4.5	3.3	2.9	9.9	6.7	8.2	15.5	4.1
December 1974	13.3	8.9	7.0	4.6	4.0	12.6	9.5	11.5	18.7	5.1
December 1975	14.5	10.4	7.8	4.8	5.4	12.9	10.3	13.0	20.4	6.2
December 1976	15.9	11.6	8.8	5.1	6.2	13.5	11.1	13.9	22.3	6.9
December 1977	18.9	13.2	9.9	5.4	7.2	13.9	11.2	13.4	21.3	7.1
December 1978	27.1	18.6	14.3	8.1	9.0	16.9	13.5	15.5	25.8	7.9
December 1979	39.1	28.5	21.6	12.0	14.8	21.4	17.7	19.4	31.1	12.0
December 1980	50.1	34.3	26.7	13.3	16.1	24.2	19.3	21.1	30.9	11.7
December 1981	79.7	60.8	46.7	20.2	31.3	33.3	29.4	31.5	39.7	20.3
December 1982	86.3	69.5	53.9	23.3	38.6	33.3	30.4	32.8	39.5	22.4
December 1983	88.5	73.9	57.1	22.8	46.4	32.8	31.1	33.0	38.3	24.4

1/ Agencies, branches and subsidiary commercial banks. (California offices of Puerto Rican banks are not included.)
2/ Amount shown in this table as percent of total amount shown in Table 12.
3/ Revised

Sources: FFIEC 002, FFIEC 010, FFIEC 014, FR 886a, and FR 105.

EXHIBIT F

The CHAIRMAN. Thank you very much. I know that you summarized your statement. Your entire statement with the exhibits and tables will be printed in the record in full, as well as yours, Mr. Howell.

May I say that I appreciate both of you coming on short notice to testify and particularly the fact that you're here testifying about some of those countries that regulate you. I appreciate you being here from that standpoint as well.

CONTINUE TO SEND PROPER SIGNALS

As I said to Secretary Regan, I do think the best approach at this time is to continue to send the proper signals, but again, I would repeat, if the signals are not sufficient, we may have to proceed with legislation. That will be a very active option. That's why I will reintroduce the bill in the next Congress. I'm sure you're both aware that at the end of a Congress all legislation dies that has not been enacted, but I will reintroduce it when we reconvene in January.

Mr. Howell, let me just ask you, you said you felt there had been considerable progress made in Australia. Is that on a relative basis? The Australians asked me how many banks I thought they ought to admit. In the Campbell report they talked about admitting 10. They asked me, when they decided on the number of banks, how they would decide which banks to admit. And I said, well, it certainly wasn't for me to interfere in the internal affairs of another country and try to proscribe that process. It was up to them to decide. However, it seemed obvious to me that the fewer number they decided to let in the more difficult process of picking and choosing who would get in because obviously they would say, well, one from the United States and one from Japan—and you can just see the process. It was a very small crack in the door. The more they let in, the easier that decision process would be.

Obviously, they didn't take my suggestion. But I was just wondering if we have a different viewpoint. Compared to past practice, do you think it's quite a step in the right direction, or what I call a crumb?

Mr. HOWELL. It is certainly relative. I guess the perspective we have takes into account the context of the change in Government for one thing. There was apprehension with the election of the Hawke government that the results of the Campbell report might not be realized, and the convening of yet another study committee with broader terms of reference suggested that we might be losing some ground.

As we read it, this Government has indeed responded to date in a very encouraging way. Clearly, it remains to be seen how this all comes out.

We understand that further clarification is expected shortly. There are a good many conversations going on here with the Treasurer. We will be seeing him as well and we remain hopeful that the situation will indeed turn out to be one in which the market is opened up very substantially.

But, as you say, whether we characterize it as a crumb or an expression of encouraging intentions, it really remains to be seen how

it comes out. But so far, the attitude of the Government seems to be a positive one and we are prepared to take them at their word at this time.

The CHAIRMAN. Well, I found out one thing in Australia, that governments are not much different wherever they are, I mean that in reference to the fact that every official I talked to assured me that they agreed with me but it was somebody else in the Government who was blocking the solution to the problem. I understand how the buck passing goes on. Everybody was very encouraging—"We understand, Mr. Senator." I'm sure Senator Hecht can verify this. "You're right" and so on, "but it's somebody else in Parliament that I've got to watch out for."

So I will again take time here to let them know I understand how that process goes on. It goes on in our Congress as well as in their Parliament and their Government. So I want to encourage that crumb to grow much larger, much more rapidly.

Mr. WILLIAMSON. Mr. Chairman, if you would allow me to comment to that, having attended this session yesterday, you will, as you read the release, understand that the granting of bank licenses was correct. They are fairly vague on the number, however. They're talking largely in terms of six plus or minus, probably slightly plus, but they are still talking about 50 percent Australian ownership in those licenses, although they have held out the possibility of some negotiation in that regard.

ISSUE OF MERCHANT BANKING

Perhaps more importantly I would suggest that you continue to watch the issue of merchant banking in Australia. As you know, they have put a moratorium on the Foreign Investment Review Board regulations. That's quite more far reaching at the moment than the banking issue, and allows foreign banks to do almost everything other than write checks and accept deposits, for a moratorium period of 12 months. I would urge this committee and Congress to watch that development closely. At the end of the 12 months, then what happens is probably of more interest than right at the moment, because at the end of 12 months, they have the problem of looking back at the group and saying, "are we going to allow them to have open, free access to the marketplace or will we again try to put some kind of restriction on them."

The CHAIRMAN. Well, if they are like moratoriums here, on the financial institution legislation that I have been trying to promote for several years, it's just "let's have one more moratorium and at the end of that one we'll have another one."

Mr. WILLIAMSON. That's possible.

The CHAIRMAN. I discussed at length on the floor a couple weeks ago how many times I had been promised if we'd only wait until January of next year we would be ready to make decisions on some of these issues. So I suppose the Australians are no different, a 12-month delay while they try to collect themselves and maybe they will. Senator Hecht.

Senator HECHT. Thank you, Mr. Chairman.

If I may, I would like to quote from Business Week of May 14, 1984, and have this put into the record. I'm just going to summarize briefly.

The headline is "A Bill That's Packing a Punch Before It Passes." It refers to our esteemed Senator Garn:

Rarely has a bill that has not even reached the Senate floor created as much turmoil around the world as Senator Jake Garn's proposal to treat foreign banks in the United States much the way American banks are treated overseas.

It goes on to say:

The name of the game is reciprocity.

And it summarizes,

The bill would simply authorize the Comptroller of the Currency to consider reciprocity, among other factors, when examining an application by a foreign bank to establish a federally chartered branch or agency.

It points out the symbolic importance. The results are:

The Australian Government may allow foreign banks to own up to 50 percent of four to six full-service banks yet to be created, a move U.S. banks would applaud.

It goes on:

* * * that even the Japanese are bending. Two weeks later in Washington, Japanese officials agreed to permit foreign banks to underwrite and sell government bonds over the counter beginning in June, gave them permission to trade government bonds in the secondary market starting in 1985, and promised to consider letting foreign banks enter the trust business.

It summarizes the entire article about all the accomplishments of this bill and it says:

That, of course, is just what Garn has in mind. In fact, if more countries ease their restrictions on U.S. banks, Garn might even withdraw his bill. If so, it would stand in the annals of Congress as a rare piece of legislation that had its full effect without ever being enacted.

I thought that was very relevant today and I'd like to have this in full in the record.

The CHAIRMAN. Without objection.

[Business Week, May 14, 1984, article follows:]

BusinessWeek
MAY 14 1984 A McGRAW-HILL PUBLICATION $2.00

A BILL THAT'S PACKING A PUNCH BEFORE IT PASSES

Rarely has a bill that has not even reached the Senate floor created as much turmoil around the world as Senator Jake Garn's proposal to treat foreign banks in the U.S. much the way American banks are treated overseas. The bill, now close to approval by the Senate Banking Committee, has touched off a wave of liberalization moves in at least four important foreign financial centers that fear U.S. reprisals against their financial institutions.

The name of the game is reciprocity, a concept foreign to U.S. banking law. Garn, a Utah Republican who chairs the Banking Committee, is not really planning to introduce "eye for an eye" reciprocity. His bill—which has widespread support in the Senate and could become popular in the House—would simply authorize the Comptroller of the Currency to consider reciprocity, among other factors, when examining an application by a foreign bank to establish a federally chartered branch or agency.

Foreign banks were brought under the same restrictions governing domestic banks by the International Banking Act of 1978, a move designed to put them on equal competitive footing. That halted foreign banks' forays into interstate banking. Yet their assets in the U.S. have tripled since then, from $109 billion at the end of 1978 to $327 billion at the end of 1983. That prosperity has added to the frustration in Congress and the Administration over foreign restraints on U.S. banks.

SYMBOLIC IMPORTANCE. The legislative threat has not gone unanswered. In Australia, foreign banks cannot open branches, although about 65 of them have skirted the regulations by acquiring equity interests in merchant banks, local finance companies, and other financial institutions. In April the government decided to permit these "nonbank" banks to engage in all forms of trade financing and other international transactions. "This move is symbolically very important. It is a major opening of a new form of business," says G. Bruce Baker, senior vice-president with First Interstate Bank of California.

The Australian government may allow foreign banks to own up to 50% of four to six full-service banks yet to be created, a move U.S. banks would applaud. Harry Taylor, president of Manufacturers Hanover Corp., says his company is keen on obtaining an Australian banking license because Sydney has the potential "to rival, if not surpass, Hong Kong and Singapore."

In South Korea, the growing pressure from Washington hastened Seoul's own efforts to make its financial system more competitive. Even foreign bankers are impressed. The South Korean government announced on Apr. 20 that beginning in 1985, the 48 branches of foreign banks in the country will have access to attractive central bank rediscounting facilities for export financing and will be permitted to enter the trust business—privileges now reserved for domestic banks. "This gives us an important new role," says William Brown, general manager of American Express International Banking Corp. in Seoul.

Even the Japanese are bending. In Tokyo in late March, Treasury Secretary Donald T. Regan threatened U.S. retaliation if the Japanese did not agree to U.S. demands that they liberalize their capital markets. Two weeks later in Washington, Japanese officials agreed to permit foreign banks to underwrite and sell government bonds over the counter beginning in June, gave them permission to trade government bonds in the secondary market starting in 1985, and promised to consider letting foreign banks enter the trust business.

The Garn bill has also had an impact in Canada, where foreign banks were getting perilously close to the ceiling that limits foreign bank assets to 8% of total domestic assets in Canada. But in mid-April, Prime Minister Pierre Elliott Trudeau's government introduced legislation that would double the ceiling. "There is no question that the Garn bill has been helpful," says an official of a big U.S. bank in Canada. And Finance Minister Marc Lalonde told BUSINESS WEEK: "If we left things the way they are, we would be accused of preventing in Canada what we are asking foreign countries to accept for our banks."

That, of course, is just what Garn has in mind. In fact, if more countries ease their restrictions on U.S. banks, Garn might even withdraw his bill. If so, it would stand in the annals of Congress as a rare piece of legislation that had its full effect without ever being enacted. ■

The CHAIRMAN. I thank the Senator, who has certainly been a valuable member of this committee in his brief tenure and, again, was with me on that trip backing me up every step of the way in delivering the messages.

Senator Gorton.

Senator GORTON. No questions, Mr. Chairman.

The CHAIRMAN. Gentlemen, I have no additional questions. Again, let me thank you for your testimony and we appreciate your continuing update and we will ask the Treasury, with your input and information, how we are progressing with national treatment. Thank you very much.

The committee is adjourned.

[Whereupon, at 10:45 a.m., the hearing was adjourned.]

[Additional material supplied for the record follows:]

AMERICAN
BANKERS
ASSOCIATION

1120 Connecticut Avenue, N.W.
Washington, D.C.
20036

EXECUTIVE DIRECTOR
GOVERNMENT RELATIONS

Gerald M. Lowrie
202/467-4097

November 4, 1984

Senator Jake Garn
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Garn:

We thank you for the opportunity to submit our comments for the record on your reciprocity legislation (S. 2193), the 1984 UPDATE of the "national treatment study" (Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations - 1984 Update, prepared by the Department of the Treasury), and the issues related to the national treatment of U.S. banks abroad.

ABA Position on National Treatment vs. Reciprocity

Throughout the debate on the International Banking Act, the Association consistently endorsed and encouraged the U.S. policy position of national treatment over proposals considered for the establishment of reciprocity arrangements. Our belief then, as it is now, was that a national treatment approach provides the most equitable means of fostering and managing competition in the international financial system. Recognizing the differences in banking systems worldwide and the extent of international presence of over 200 financial institutions, the implementation of a policy of reciprocity would become an administrative nightmare. We believe national treatment provides the most viable means for overcoming differences between national financial systems.

S. 2193

We commend the attention given to these important issues through your introduction of S. 2193 which directs the Office of the Comptroller of the Currency to consider reciprocity (in addition to other factors) when acting on applications by foreign banks to establish Federal branches or agencies. Nevertheless, we believe that such legislation at this time would be counter productive to the progress being made using existing channels and bilateral negotiations. We suggest that a more effective mechanism of "checking" the policies of other countries might be the continued oversight of these issues by your Committee in cooperation with the

Department of the Treasury. We recognize that your proposed legislation has acted as a catalyst for improved treatment of U.S. banks in a number of countries. To maintain its effectiveness, we suggest continued periodic review of these issues by your Committee.

1984 Update

We appreciate your timely request for the update of the 1979 National Treatment Study. The Association submitted comments to the Office of the Comptroller of the Currency on four countries which were identified by our members as important international capital markets. Our comment letter and appropriate enclosures (background documents) are enclosed for your review. The 1984 Update indicates that progress has been made in a number of countries since the 1979 Report was published. Although we can cite progress in a number of countries, some substantial inequities remain. Therefore, we concur with Secretary Regan's comment in the 1984 Study Introduction that "while some progress has been made in reducing barriers to banking competition in some foreign markets, continued U.S. government attention is clearly warranted."

We commend Treasury and the other cooperating agencies for their diligent efforts in representing the interests of the U.S. financial community abroad. These efforts provide an opportunity to formally assess progress made, highlight continued areas of concern, determine strategies for alleviating problems, and identify emerging discriminatory or non-competitive trends.

We will continue to monitor these issues and will provide support to Treasury by providing input on these issues as they are debated in both bilateral and multilateral forums. In addition, we will support Congressional action to promote the issues of free trade in services.

Thank you for the opportunity to express our position. We are available to assist as appropriate and will contact your office as we have in the past when we host meetings in Washington of U.S. bank representatives from overseas offices.

Sincerely,

Gerald M. Lowrie

Enclosures

Schedule 'B' Foreign Banks
Executive Committee

The Canadian Bankers' Association's committee representing foreign bank subsidiaries in Canada

September 21, 1984.

Senator Jake Garn,
Chairman,
Committee on Banking, Housing, and
Urban Affairs,
United States Senate,
Washington, D.C.
20510.

Dear Senator Garn:

Thank you for your September 15th letter regarding comments on the final draft of the Treasury Department's report on the treatment of U.S. banks abroad. Input from American Banks in Canada was requested during the preparation of the Treasury Department's review and we were pleased to see this included in the draft statement provided. I have taken the liberty of circulating your letter along with a copy of the Treasury review to U.S. Banks in Canada.

It is our opinion that the recent doubling of the overall market-share ceiling allocated to foreign banks in Canada is a positive step towards liberalization of the treatment of foreign banks by the Canadian authorities and will enhance competitive opportunities for us. It also represents progress towards the complete removal of the asset ceiling advocated by the House of Commons Standing Committee on Finance, Trade and Economic Affairs.

Following the statutory change, the Inspector General has announced approval of a first round of increases in asset ceilings for individual banks. While the amounts are somewhat smaller than expected, further increases are anticipated in response to subsequent applications by the foreign banks. The foreign banks will continue to seek relief in two principal areas:

1) The eventual elimination of the asset ceiling.

2) The easing of Prudential Lending Limits imposed by the Inspector General of Banks.

I have also enclosed a summary of the several legislative and regulatory matters that serve to restrict the business of U.S. banks in Canada.

..../2.

P.O. Box 282, Toronto-Dominion Centre, Toronto, Ontario M5K 1K2

A new Progressive Conservative Government is being formed, and we look forward to the possibility of further relaxation of restrictions on foreign banks in Canada. We will report to you on the prospects for this later in the year after we have had a chance to meet with the new Government.

We appreciate your interest and support for our efforts to liberalize the regulatory environment for foreign banks in Canada.

Yours very truly,

John R. Altenau.
Chairman.

:sg

PRIORITY ISSUES OF THE SCHEDULE 'B' FOREIGN BANKS IN CANADA

This list, although numbered has no particular degree of priority. It should be noted, however, that the two major concerns of the foreign bank community in Canada are prudential lending limits and the ceiling limit on the total domestic assets of the Schedule 'B' Foreign Banks. Each issue has been identified as either being statutory or regulatory in character and is briefly explained.

1. Market Share Ceiling Limit (Statutory Issue)

Pursuant to Subsection 302(7) of the Bank Act, the Schedule 'B' Foreign Banks are limited to total domestic assets not exceeding 16% of the total domestic assets of all banks in Canada.

2. Prudential Lending Limits (Regulatory Issue)

The Inspector General has established guidelines which permit the Schedule 'B' Foreign Banks to lend up to 50 percent of their capital to a single borrower, with a loan of 100 percent of capital to a single borrower being permitted in exceptional cases. At present, the Inspector General has limited Canadian banks to a lending limit of of up to 25 percent of capital to a single borrower, with up to 50 percent being permitted under exceptional circumstances, and has indicated that he intends to lower the limits on the Schedule 'B' Foreign Banks to a level equal to that of Canadian Banks, without regard to the capital position of the parent bank despite the guarantee and comfort letter provided by the parent.

3. Withholding Tax and Thin Capitalization Rules (Income Tax Act)

The withholding tax and thin capitalization rules are applied pursuant to Subsections 18(4)-(7) and 212(1)(b) of the Income Tax Act. The effect of this legislation is to restrict the fund raising ability of Schedule 'B' Foreign Banks by denying the deduction for interest expense on funds borrowed from related corporations, namely the parents of the foreign banks subsidiaries. This, effectively, prohibits Schedule 'B' Foreign Banks from borrowing from related corporations.

4. Offshore Funding Limits (Regulatory Issue)

The Inspector General has established a limit that a Schedule 'B' Foreign Bank may fund only 50 percent of its Canadian dollar assets from offshore.

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5. Sale of Assets by Schedule 'B' Foreign Banks' Subsidiaries to Parents (Regulatory Issue)

The Inspector General has indicated that he would view with disapproval the situation in which a foreign bank sold off part of one of its loans to its head office or another branch of the bank outside Canada, since he believes that practice would effectively permit foreign banks to get around the asset ceiling.

6. Leverage on Total Assets (Regulatory Issue)

The Inspector General, at one time, wished the Schedule 'B' Foreign Banks to maintain their total assets to capital ratio at 20:1. He has recently, however, permitted an overall leverage for an individual foreign bank to exceed 20:1 when he deems it appropriate.

This is still viewed by the foreign bank community as discriminatory in comparison with the large Canadian banks, although it is recognized that the Inspector General has recently been pressurizing the domestic banks to reduce their leverage from levels of around 30:1 to a ratio closer to 20:1.

7. Cross-border Data Flow (Statutory Issue)

Pursuant to Section 155 and Subsections 157(4)-(6) of the Bank Act, all Schedule 'B' Foreign Banks are required to maintain records and perform data processing within Canada. This is costly, especially for the smaller Schedule 'B' Foreign Banks, and an undesirable precedent with respect to trans-border data flow. The foreign bank community is co-operating with the domestically owned banks in Canada to achieve changes in this matter.

8. Individual Asset and Capitalization Restriction (Statutory Issue)

The Bank Act provides in Subsection 174(6) that an arbitrary figure for the authorized capital of a Schedule 'B' Foreign Bank may be "deemed" by the federal government. Pursuant to paragraph (e) of Subsection 174(2) of the Bank Act, any Schedule 'B' Bank is restricted to domestic assets in a ratio of 20:1 to its deemed authorized capital.

9. Branching (Statutory Issue)

(a) Branch of Parent in Canada

Subsection 302(1) of the Bank Act prohibits a foreign bank from establishing a branch in Canada. The wording of the Bank Act is such that a foreign bank may only do the business of banking within Canada as a Canadian-incorporated subsidiary of the parent.

(b) Branching Within Country of the Schedule 'B' Foreign Bank

Subsection 173(2) of the Act restricts a Schedule 'B' Foreign Bank to one head office and one branch, with further branches only being possible with the approval of the Minister of Finance.

(c) Prohibition of Branches of Schedule 'B' Foreign Banks Outside of Canada.

Pursuant to Subsection 173(2) of the Act, a Schedule 'B' Foreign Bank may not open any branches other than representative offices, outside Canada.

10. Licencing (Statutory Issue)

A Schedule 'B' Foreign Bank is required by Subsection 28(6) of the Act to obtain an annual renewal of its licence for its first five years, and, thereafter, renewal every three years.

AMERICAN CHAMBER OF COMMERCE IN AUSTRALIA
3rd. Floor, 50 Pitt Street, Sydney, N.S.W. 2000. Telephone 941 1907

September 18, 1984

AIR MAIL.

The Honorable Jake Garn,
Chairman,
Committee on Banking, Housing and
Urban Affairs,
United States Senate,
WASHINGTON, D.C., USA, 20610

Dear Senator Garn,

Your letter of August 31 has only just reached me and, as you request, I hasten to submit some comments on foreign government treatment of U.S. banks.

My comments are largely in the form of an update on statements contained in the report which has been somewhat overtaken by events.

The Federal Cabinet on September 10 adopted a new set of entry criteria for foreign banks which will permit applicants to indicate a range of equity structures under which they would be prepared to operate in Australia.

While the criteria establishes a preferred local equity level of 50 per cent, it offers the flexibility of allowing some applicants an option of outright control or complete ownership in return for the offer of extra services or benefits. The Treasurer, Mr. Keating, has indicated that while 100 per cent equity is theoretically possible, parties bidding for outright ownership would be overly optimistic.

Up to 10 new foreign banks are believed to be covered by the new guidelines.

It is interesting to note that whereas a Liberal coalition government first introduced the proposal to permit foreign banks to operate in Australia, it was a Labor government which has brought the proposal to a point close to fruition.

The Treasurer has announced that applicants for banking licenses must be submitted by November 24. Final decisions on the successful applicants will be made early in 1985.

I believe the report should reflect the fact that something more than a "minor improvement" has taken place in Australia with respect to the treatment of foreign banks.

I trust you will find these views helpful.

Sincerely,

Kevin Bannon
Executive Director

EKB/CC

AMERICAN CHAMBER OF COMMERCE
REPUBLIC OF CHINA

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September 13, 1984

The Honorable Jake Garn
United States Senate
Washington, D.C. 20510
U. S. A.

Dear Senator Garn,

Thank you for your letter of August 31, 1984. The American Chamber of Commerce in the Republic of China has followed with keen interest your efforts to address issues of "national treatment" related to U.S. banks operating abroad. Our American Chamber office has focused on this issue as a priority concern in 1984. In fact, our American Chamber Banking Committee was instrumental in drafting the American Institute in Taiwan response to the U.S. Treasury Department "national treatment" survey.

I've enclosed for your review a recent paper commissioned by the Banking Committee of our American Chamber office which addresses in detail the lack of "national treatment" of U.S. banks in Taiwan. Mr. Rodney Freed, Chairman of our Banking Committee, and I had the opportunity to present this paper during meetings with Senate Banking Committee legislative assistants during the June 1984 "Washington Doorknock". I believe the paper provides detailed analysis of those issues raised in the Treasury Department report.

We look forward with great interest to your forthcoming hearings on the issue of "national treatment". Your efforts represent a most effective means of focusing our host government's attention on this issue. It is certainly appropriate to address issues of "national treatment" of U.S. banks in Taiwan at a time when Taiwan is expected to enjoy a nearly US$10 billion 1984 trade surplus as a result of unrestricted access to our markets in the United States. I might add that we are prepared to send representatives to testify at your hearings should you consider it appropriate.

On a closing note, may I say how much we in the American Chamber of Commerce in the R.O.C. look forward to your November 1984 visit. We trust we will have an opportunity to meet with you to discuss our mutual concern with respect to issues of "national treatment" of U.S. banks in Taiwan.

Sincerely yours,

Herbert Gale Peabody
Executive Director
American Chamber of
Commerce in the
Republic of China

Encl.

ACCJ The American Chamber of Commerce in Japan/在日米国商工会議所

September 26, 1984

Sen. Jake Garn
Chairman
Committee on Banking, Housing, and
Urban Affairs
UNITED STATES SENATE
Washington, D.C. 20510
U.S.A.

Dear Senator Garn:

Thank you for your August 31 letter to Dick Cropp, Executive Director of the ACCJ. I don't know that our Chamber's input was in fact requested during the preparation of the Treasury Department's report on national treatment, but as you may see by my attached letter to Secretary Regan, we do wish to make ourselves available for consultation.

During the annual "doorknock" visit of the Asia-Pacific Chambers of Commerce to Washington we made presentations on banking conditions in Japan, Taiwan and Korea to your committee's staff headed by Danny Wall. A copy of my comments about Japan is included also.

While, of course, we are positive about the liberalization moves made in the Japanese market, the statement in the report that this will "significantly improve the regulatory environment" is a broad statement as changed conditions may or may not contribute to American banks' profitability and market penetration. In addition, I have not heard anything about addressing the question of Texas bank being able to enter into this market.

We feel here that both the Treasury Department and the Ministry of Finance have not sufficiently consulted with those of our members in the financial field actually operating in this market and would hope that we can work more closely in the future.

In respect to the Ministry of Finance, the ACCJ's Financial Services Committee are finding the Ministry more open these days and have seen some concrete movement towards improving reporting requirements which we brought to their attention as being unnecessary. I also enclose the notes of the last meeting of our Financial Services held with the Ministry of Finance.

Sincerely,

Robert L. Sharp
President

Encl.

Fukide Bldg No. 2, 1-21, Toranomon 4-chome, Minato-ku, Tokyo 105 Tel: 433-5381 Telex: J23736 KYLETYO

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Mr. Jake Garn
Chairman
Committee on Banking,Housing and
Urban Affairs
United States Senate
WASHINGTON, D.C. 20510

September 11, 1984

Dear Senator Garn;

Thank you for your letter dated August 31, 1984.

I have read and agree with the contents of the " Summary and Conclusions " and its section on the Portuguese banking system. The only changes I would suggest are as follows:

1 - Applications for new banks are subject to the joint approval of the Prime Minister and Minister of Finance. (page 39, column 2, paragraph 3)

2 - Reserve requirements will be the same for all banks (6% over 12 months, 8% between 6 and 12 months and 12% below 6 months). (page 40, column 2, paragraph 3)

With regard to the U.S.Commercial banking presence in Portugal,three banks (Chase, Citibank and Manufacturers Hanover Trust) out of the five represented in this country applied in March/April of 1984 for branch authority under the Portuguese legislation. In September 5, the Portuguese Government authorized Chase and Manufacturers to open full branches in Portugal.
(copies of the laws are enclosed)

I also attach a booklet containing information on the legal framework for the " Private Commercial and Investment Banks " in Portugal.

Sincerely Yours

H.M. Brito do Rio
Secretary-General

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THE HONORABLE JAKE GARN CHAIRMAN
UNITED STATES SENATE BANKING
COMMITTEE
WASHINGTONDC(20510)USA
DEAR SENATOR GARN THE REPORT INCLUDED IN YOUR LETTER
OF AUGUST 31 WAS CIRCULATED AMONG 14 US BANKS MEMBERS OF THIS
CHAMBER STOP WE HAVE RECEIVED ONLY ONE REPLY SAYING QUOTE WE
HAVE NOTHING TO ADD TO THE COMMENTS ENCLOSED IN YOUR LETTER
OTHER THAN TO EXPRESS OUR APRECIATION TO THE SENATE COMMITTEE AND
THE CHAMBER FOR ITS EFFORTS IN QUOTE STOP RESPECTFULLY
THEHAMERICAN CHMBER OF COMMERCE IN SPAIN
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หอการค้าอเมริกันในประเทศไทย
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BANGKOK. THAILAND.

21 September 1984

The Honorable Jake Garn
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510
U.S.A.

Dear Senator Garn:

Thank you for your letter of 31 August 1984 to the Chamber concerning foreign government treatment of U.S. banks and enclosing a copy of the "Summary and Conclusions" and section on Thailand of the Treasury Department's recently released report on the subject.

Our Chamber concurs with the section on Thailand and agrees with the "Summary and Conclusions". We appreciate your support in efforts to reduce barriers to the export of U.S. goods and services, especially at this time when the United States is experiencing a huge trade deficit and shortfall in the current account.

Sincerely yours,

Harold K. Vickery, Jr.

Harold K. Vickery, Jr.
President

Dear

AMERICAN CHAMBER OF COMMERCE IN KOREA

October 6, 1984

The Honorable Jake Garn
Chairman, Committee on Banking
Housing and Urban Affairs
United States Senate
Washington D.C. 20510

Senator Garn:

Thank you for your letter of August 31, 1984 and for the opportunity to comment on the final draft of the Treasury Department's updated "national treatment" report. My apologies for not responding sooner but delays arose as a result of our having requested a review of the report by attorneys here.

We find the report generally accurate but it does contain some misleading statements and factual errors which we would like to draw to your attention. The former are addressed below while the latter are detailed in the attached addendum to this letter.

I would first like to point out that the report's discussion of key developments in Korea since 1979 (page 29 of the report) indicates that the foreign banks have benefitted more from changes implemented over the past five years than is actually the case. In our mind, there has been little change. For example, the report implies that joint venture banks can now be readily established in Korea. In fact, there are now only two foreign invested joint venture banks in Korea and only one of those has foreign bank ownership. The establishment of new ones is the sole discretion of government authorities and it is very questionable at this time whether such authorities would be receptive to applications for other joint venture banks. Further, while permission to purchase business premises has been granted to foreign banks who meet certain criteria, this change is a bit of a ruse. As the report points out, only 3 of the 42 foreign banks with branches meet the criteria and it is unlikely that any other foreign banks will qualify in the near term. The fact that foreign banks must meet criteria at all is discriminatory and it flies in the face of "national treatment". Lastly, foreign banks really do not participate in securities activities on a par with local banks. It is true that both catagories of banks can obtain licences to enter into repurchase agreements with government securities they underwrite. However, without requisite incremental funding, the foreign banks are essentially eleminated from participating in such business.

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Organization Member: Chamber of Commerce of the United States of America
Asia-Pacific Council of American Chambers of Commerce

AMERICAN CHAMBER OF COMMERCE IN KOREA

There are several references in the report to the Ministry of Finance paper dated April 20, 1984 which outlines changes in the banking system designed to put the foreign banks on more equal footing with the local banks. The report implies that the measures listed in the paper, including the granting of access to the rediscount window of the Bank of Korea, will significantly improve the lot of the foreign banks. We noted from Secretary Regan's recent testimony before your committee that he views the Ministry of Finance paper as having more real and immediate significance than ourselves. He commented that significant progress has been made in Korea using the April 20 paper as proof. It is important to point out that the Ministry of Finance paper is merely a policy statement and, as such, is subject to change at the Ministry's discretion. Additionally, the exact manner of implementation of the major changes announced by the Ministry has yet to be made clear. Accordingly, until such policy changes are actually implemented it will be difficult to assess what their effect will be on foreign bank branches in Korea. We therefore believe that both the Treasury Department in its report and the Secretary himself are premature in giving such a positive assessment of Korea's move toward "national treatment" as a policy directive.

With doubts still lingering on this issue, it is important to continue to demonstrate to the authorities here that concrete and meaningful changes are the only response the foreign banks and the U.S. government will accept. Our concern is that unless pressure continues to be applied, the Korean government may find it convenient to drag its feet in following through on the "national treatment" issue. The threat of reciprocity is certainly one way to hold their interest and we thus encourage the Senate Committee on Banking, Housing and Urban Affairs to follow through with its present hearings bearing this fact in mind.

Sincerely,

Frederick C. Krause
Executive Vice President

CC: Mr. M. Danny Wall,
Staff Director
The Committee of Banking, Housing
and Urban Affairs, United States

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AMERICAN CHAMBER OF COMMERCE IN KOREA

Addendum

Errors in the U.S. Treasury Departments
Review of National Treatment in Korea

1. The last paragraph on page 27 of the Report states that the "specialized banks" are not subject to the General Banking Act. We note that most of the statutes under which each specialized bank was created specifically provide that several sections of the General Banking Act are applicable to such bank.

2. The third full paragraph of page 29 of the Report states that the Korean government "maintains the right" to appoint bank presidents. Although it is true that the government may exercise persuasive influence over the appointment of bank presidents and other top officers, in the case of commercial banks they have no actual legal right to do so.

3. The penultimate paragraph of page 29 states that "access to the domestic call money market ... (is) based on an entity's capital in Korea." We note, however, that the maximum amount a foreign bank branch can borrow in the call money market is based on the monthly average amount of its deposits rather than its capital. It should also be noted that the call market regulations have been recently amended to allow foreign bank branches alone to participate in a "preliminary" call market without competition from domestic banks.

   The Report notes that one of the "Key Developments Since 1979" has been that "foreign banks meeting certain criteria have been permitted to purchase their business premises since 1983" (page 29). Although the statement on its face is true, it should also be noted that the criteria are difficult to meet, i.e., branch established for 10 years, branch assets of at least 200 billion Won and minimum credit exposure to Korea of one billion U.S. Dollars. At present only three of the 42 foreign banks with branches in Korea can meet these criteria and no others are likely to be able to meet them in the near future. Additionally, even those banks which meet these criteria are subject to restrictions on the value and overall size of the property which may be acquired.

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AMERICAN CHAMBER OF COMMERCE IN KOREA

4. At the end of page 29 the Report states that a relaxation of the constraints placed on the ownership of real property by foreign banks would require an amendment to the Alien Land Acquisition Law ("ALAL"). This is not necessarily correct. Under the current ALAL all foreigners, including foreign banks, are permitted to acquire real property provided a permit is obtained from the Ministry of Home Affairs ("MHA"). The granting of such permits is a matter within the sole discretion of MHA, and as a practical matter tha MHA has been unwilling to issue such permits. A relaxation of the restrictions placed on foreign banks in this regard could therefore be accomplished by a change in policy on the part of the MHA and not a statutory amendment. It is true, however, that such relaxation of restrictions could also be achieved by legislative enactment specifically permitting foreign banks to hold title to properties obtained in foreclosure proceedings.

5. The third paragraph of page 30 refers to the National Bank Association. In July 1984, the National Banks Association was dissolved and a similar association was shortly thereafter organized. Although foreign banks have been allowed to become members the new organization is apparently not as influential as its predecessor association. For example, the new organization does not have the same rule making power that had been entrusted to the National Banks Association. The prior "agreements" of the members of the National Banks Association have now, for the most part, been incorporated in the regulations and guidelines of the Monetary Board or the Bank of Korea.

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